



No Longer the Skunk of the World?

*Neoliberalism, Human Rights and Contemporary South African Foreign Policy
(1994-2014)*

by

Brendan von Essen

Student No. 313827

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Supervisor: Dr. Vishwas Satgar

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Abstract

In the early 1990s South Africa left the Apartheid-era and transformed into a country based on liberal democratic principles such as freedom and human rights. The soon to be inaugurated president, Nelson Mandela, promised that South Africa would base its new foreign policy on these same principles and the pursuit of the international human rights agenda. Initially this seemed to be the case; South Africa signed on to most international human rights conventions and even acted on these principles condemning Nigeria when the ruling regime executed human rights activists. However, once the country gradually began adopting neoliberal ideological positions, first domestically then in its foreign policy, the prominence of human rights in South Africa's foreign policy began to wane. This is evidenced in South Africa's actions on international organisations as well as the country's approach to human rights challenges such as the Zimbabwean crisis in the early 2000s and the furore over planned visit of the Dalai Lama in 2011.

Using a hermeneutic approach it is possible to gain an ontological understanding of the process by which this move towards neoliberalism lead to a economisation and commodification of South Africa's foreign policy between 1994-2014. This in turn undermined the liberal democratic principles which underpinned the country's international relations leading to a relegation of the human rights agenda to a subsequent byproduct which can be achieved through greater market liberalisation.

Key terms

Apartheid

Constitution

Democracy

Democratic theory

Department of International Relations and Cooperation (Dirco)

Foreign Policy

Hermeneutics

Human Rights

International Covenant on Civil and Political Rights (ICCPR)

International Covenant on Economic, Social and Cultural Rights (ICESC)

Jacob Zuma

Liberalism

Nelson Mandela

Neoliberalism

Nepad

Post-Apartheid

Thabo Mbeki

United Nations Security Council (UNSC)

United Nations Human Rights Council (UNHRC)

World Trade Organisation (WTO)

List of Acronyms

| | |
|--------|--|
| ANC | African National Congress |
| APRM | African Peer Review Mechanism |
| AU | African Union |
| BRIC | Brazil, Russia, India, China |
| BRICS | Brazil, Russia, India, China, South Africa |
| Cosatu | Congress of South African Trade Unions |
| Codesa | Convention for a Democratic South Africa |
| COMESA | Common Market for East and Southern Africa |
| CRC | Convention on the Rights of the Child |
| Dirco | Department of International Relations and Cooperation |
| EAC | East African Community |
| ESC | Election Supervisory Committee |
| EU | European Union |
| GATT | General Agreement on Trade and Tariffs |
| GDP | Gross Domestic Product |
| GEAR | Growth Employment and Redistribution |
| ICC | International Criminal Court |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESC | International Covenant on Economic, Social and Cultural Rights |
| IMF | International Monetary Fund |
| JOM | Judicial Observer Mission |
| MDC | Movement for Democratic Change |
| MEC | Member of the Executive Council |
| MFA | Ministry of Foreign Affairs |
| MOSOP | Movement for the Survival of the Ogoni People |
| NEC | National Executive Council |
| Nepad | New Partnership for Africa's Development |
| OAU | Organisation of African Unity |

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|---------|--|
| RDP | Reconstruction and Development Programme |
| SAA | South African Airways |
| SACP | South African Communist Party |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| SALC | Southern African Litigation Centre |
| SAOM | South African Observer Mission |
| SAP | Structural Adjustment Programmes |
| SCA | Supreme Court of Appeal |
| UN | United Nations |
| UNCHR | United Nations Commission on Human Rights |
| UNHRC | United Nations Human Rights Council |
| UNSC | United Nations Security Council |
| WTO | World Trade Organisation |
| Zanu-PF | Zimbabwean African National Union - People's Front |

Chapter 1: Introduction

1.1 Introduction

“Never, never and never again shall it be that this beautiful land will again experience the oppression of one by another and suffer the indignity of being the skunk of the world.”¹

With these soaring words, Nelson Mandela announced to the world the arrival of a new post-Apartheid South Africa, declaring an era in which the new democracy would pursue the realisation of a human rights regime. Any claim that South Africa has slipped back into Apartheid patterns of governance and human rights policy is trite and patently untrue; however, the image of the ‘skunk of the world’ has entered local parlance as a means of highlighting failure in the pursuit of a human rights agenda.² This image has been used in speeches, articles and even political cartoons depicting South Africa’s perceived foreign policy failures. Most notably by the cartoonist and commentator³, Zapiro. This image has been utilised often as over time South Africa’s stance on human rights has evolved to a more neoliberal market centred approach which has resulted in foreign policy decisions for which the country received heavy criticism.

On 15 June, 2015 the North Gauteng High Court ordered the South African government to arrest Sudanese president, Omar al-Bashir, due the country’s obligations to the International Criminal Court (ICC).⁴ The ICC had issued a warrant for al-Bashir in 2009 charging him with crimes against humanity and genocide relating to the conflict in Sudan’s Darfur region. Al-Bashir, was in South Africa for a summit held by the African Union (AU). The day before the high court ordered the arrest of the Sudanese president, the Southern African Litigation Centre (SALC), had brought an urgent application to compel the South African government to fulfill its duties to the ICC and in the interim, rule that al-Bashir is not to be permitted to leave South Africa until the court had deliberated on the matter. The court ruled accordingly, ordering the Department of Home Affairs to not permit al-Bashir to return to Sudan. Yet, on 15 June, while the court was ordering the arrest

¹ Mandela, N. Statement of Nelson Mandela at his Inauguration as President. Pretoria. 10 May 1994.

² Vale, P. Keeping a Sharp Eye: A Century of Cartoons on South Africa’s International Relations. Ottery Press. (2012). p116.

³ Loc Cit.

⁴ Hunter, Q. “ICC demands SA explain al-Bashir exit”. Mail & Guardian. 7 September 2015. <http://mg.co.za/article/2015-09-07-icc-demands-sa-explain-al-Bashir-exit>. Retrieved: 11/02/2016.

of the Sudanese president, he was boarding a plane out of South Africa, ‘accidentally’ allowed to leave by Home Affairs officials.

Regardless of South Africa’s view on al-Bashir’s guilt or innocence or the country’s views of the ICC, the court is not without controversy, South Africa ratified the Rome Statute in 2002 codifying the obligations to the ICC into domestic law. Yet, on that day in June 2015, the South African government did not meet these obligations and ignored South African domestic law, international law and violated a high court order in the process. The failure of the South African government to abide by its various legal obligations in the al-Bashir matter lead to widespread condemnation in both the international community and within South Africa as well as by many human rights organisations. Yet this was not an isolated event, but the latest incident in which South Africa’s actions and attitude towards the international human rights regime was criticised leading to many people openly questioning South Africa’s commitment to human rights. A country which was lauded as a potential paragon of peace and human rights failed to meet its international obligations and directly violating domestic law in order to protect an accused human rights violator in pursuit of its foreign policy objectives.

South Africa did not arrive at this point overnight; this was rather a result of years of a gradual pivot away from human rights ambitions towards an economised foreign policy. In order to understand how the country arrived at this point a wider view of South Africa’s post-Apartheid years must be analysed beginning with the birth of the new South Africa.

In 1994, South Africa emerged as new country, and was rapidly globalised by a world community eagerly awaiting it. This resulted in the country, whether willingly or not, in adopting the dominant neoliberal socio-economic political ideology of the time. Yet, the new country of South Africa had just emerged from decades of Apartheid rule and in response to this the new country enshrined human rights as a cornerstone of the new state. The new government and state pledged to actively pursue a human rights agenda both domestically and abroad. This belief in the universal ideal of human rights, however, would need to be reconciled with the ascendant neoliberal philosophy. This paper proposes to gain an understanding of this by investigating the relationships between neoliberalism, foreign policy and human rights; furthermore, it seeks to understand how

neoliberalism manifested itself in South Africa's post-Apartheid foreign policy and how it in turn articulated human rights in this sphere.

In pursuit of this, the discourse and literature surrounding the related issues must be investigated, before engaging on a hermeneutical methodological approach. Data from archival documents and case studies will be sourced before entering into a discursive analysis which will result in an understanding of the space where neoliberalism, foreign policy and human rights interact in the contemporary South African context.

1.2 Statement of the problem

The process of forming a post-Apartheid state and the rapid nature in which South Africa opened itself up to a globalised world resulted in the South African state, whether intentionally or not, adopting a neoliberal paradigm which impacted its foreign policy.

South Africa began to view human rights through a neoliberal lens, believing that advancements in human rights could be achieved as a natural secondary effect of adopting neoliberal economic and political policies and stances. This approach undermined the country's founding claims that the human rights agenda has value within in itself as an actively pursued aim both home and abroad. Relegating human rights to a by-product of neoliberal policies rather than a policy pursuit, created a cognitive dissonance between the state's foreign policy actions and the achievement of human rights progress. This has led an evolution of the space, understanding and importance of human rights within South Africa's foreign policy.

1.3 Rationale and purpose of the study

In recent years, even before the al-Bashir incident, there has been much criticism, both domestically and abroad, of South Africa's human rights record in the international arena. This study is important as it seeks to understand if this criticism is valid and how and why South Africa reached this point. Integral to this is the role of the adoption of a neoliberal governing paradigm and how it changed the country's stance on the importance of human rights in South African foreign policy. This study also seeks to contribute to the body of academic literature around South

Africa's foreign policy as well as the discourse surrounding the country's development as a state over the past twenty years.

There has already been much research conducted in this field by individuals such as Danny Titus, Adam Habib and Daniel Keohane, among multiple others both in academia and the mainstream media. However, this research has tended to focus South Africa's role as a middle-power and a perceived necessity to trade off human rights in exchange for economic and political aims; furthermore this research has often focussed on specific cases in which this trade-off has occurred. This paper seeks to break with this prior research, it intends to utilise a hermeneutical approach to gain a comprehensive understanding on the subject matter as opposed to identifying a causal relationship via positivist research. This paper will also be looking at three case studies which presented South Africa's three dominant post-Apartheid presidential administrations with notable human rights challenges in order to identify any patterns which may be present due to the role that neoliberalism has played in formulating South Africa's foreign policy evolution on human rights. This research will contribute to the discourse around the ongoing tension between the state's dominant neoliberal views and the founding liberal democratic and constitutionalist paradigm.

In addition to the aforementioned case studies, this paper will investigate actions taken by South Africa's international representatives in forums such as the United Nations Security Council (UNSC), the United Nations Human Rights Council (UNHRC) and the World Trade Organisation (WTO). This study will also look at the evolution of South Africa's formally stated foreign policy, particularly as it is expressed within policy speeches and white papers.

It should be noted that this paper will define human rights, as those rights and obligations enshrined in the International Convention on Civil and Political Rights (ICCPR), the International Convention on Economic, Social and Cultural Rights (ICESC) and the Convention on the Rights of the Child (CRC); which have also been reiterated in the South African Constitution.

As mentioned above, in the twenty years since the end of Apartheid, there has been an increasing amount of public criticism of South Africa's approach to human rights both domestically and internationally. This comes at a time when South Africa has crossed the threshold where it can

claim to be an infant state. At this juncture enough time has passed to review South Africa's foreign policy and its evolving approach towards human rights, which adds value to the necessity of a study such as this. Furthermore, it should be noted that there is a space in the discourse to address the intersecting issues of neoliberalism, foreign policy and human rights. This is especially true of the first Jacob Zuma administration (2009-2014) where the literature is especially sparse.

1.4 Significance of the study

This study holds value as a piece of potential academic literature as it attempts to understand the role of human rights within and foreign policy and the influential role the entrenchment of neoliberal ideals has had on this role. Notably, this study will not be limited to a positivist analysis of a single event, or administration looking at a causal relationship between the payoff between pragmatism and principle, but will rather take a hermeneutic view of the deeper reasons and manifestations for these decisions across three case studies between 1994 and 2014. Therefore this study is able to offer a deeper explanation for the evolution of the articulation of human rights in South Africa's foreign policy. Additionally, this work comes at a time in which South Africa's role in furthering the human rights agenda has become under increasing media, domestic and international scrutiny. Furthermore, this study is occurring during a period of national internal review of the progress and development South Africa has made in the twenty-one years since the end of Apartheid.

Chapter 2: Research design and methodology

2.1 *Research questions*

The primary research question for this proposed paper shall be:

- How did the relationship between South Africa's foreign policy and human rights evolve following the gradual adoption and entrenchment of neoliberalism?

However, before investigation into the above question, the following sub-questions will need to be answered:

- How does neoliberalism interact with the concept of democracy and the practice of human rights? and how does neoliberalism manifest in foreign policy and what space does it provide the human rights regime?

2.2 *A hermeneutical approach*

This paper will be utilising hermeneutics as a methodological approach to the analysis of the relevant data. Hermeneutics as a methodology is often considered to fall under the broader umbrella term of "post-positivism", despite arguably predating postpositivism. In the nineteenth century the approach was primarily focused on the correct understanding and interpretation of texts.⁵ In the following century it developed into a broader philosophical field as a result of hermeneutics resistance to the contemporary tendency towards objectivism, scientism and positivism.⁶ This success, argues David Couzens Hoy, is due the problem that "philosophies that construe themselves as investigating or even supplying the foundations or rational grounds for the sciences often fail to question and to account for their own theoretical and epistemological status."⁷ This is much of the same reasoning behind the growth of post-positivism in research into the social sciences; especially as aspects of the human condition and human society struggle to be reduced to a binary causal relationship between an independent and a dependent variable. Hermeneutics, particularly interpretive hermeneutics is concerned with gaining a correct and holistic

⁵ Hoy, D.C "Hermeneutics". Social Research. Vol. 47. No. 4. The New School. (1980). p 649.

⁶ Loc Cit.

⁷ Loc Cit.

understanding of a subject matter as opposed to positivism which seeks this causal relationship variables. This is better articulated by Ann McManus Holroyd in *Interpretive Hermeneutic Phenomenology: Clarifying Understanding* in which she states that within the interpretive hermeneutic tradition “the intent is not to develop a procedure for understanding, but to clarify the conditions that can lead to understanding”.⁸

This need for understanding, can find its modern roots in the work by Wilhelm Dilthey, who brought the basic postulates of what he called “the rational sciences” into question.⁹ This resulted in “the move from epistemological understanding toward ontological understanding in the human or cultural sciences”.¹⁰ This move to a more ontological approach enabled the social science, including international relations, to search for a greater understanding of the nature of matters as opposed to attempting to replicate the epistemology of the natural sciences.

Hermeneutics is further concerned with methodological questions on acquiring the correct interpretation of texts and understanding deeper textual meanings.¹¹ This is of particular importance when addressing the social sciences, as according to Paul Ricoeur, the study of the social sciences is “essentially that of reading and interpreting text-analogues”.¹² This is not to say that social sciences are the study of texts rather than events, but rather that understanding emerges from placing events in their correct historical context. Furthermore, the necessary focus of social sciences and histories on written records and analysis, means that in order to understand the reasons, motivations and impact of the respective events and documents, these texts must be viewed contextually. This links with the above view of Holroyd, through contextualisation and the interpretation of texts in order to grasp deeper textual meaning, conditions are better clarified leading to a deeper and more holistic understanding of the social sciences.

It is for this grounded understanding that, hermeneutic phenomenology is the best methodological approach of interpreting the subject matter related to this research. The presence of neoliberalism

⁸ Holroyd, A.E.M.M. “Interpretive Hermeneutic Phenomenology: Clarifying Understanding”. *Indo-Pacific Journal of Phenomenology*. Vol.7. No.2. Routledge. (2015). p1.

⁹ Loc Cit.

¹⁰ Loc Cit.

¹¹ Hoy, D.C “Hermeneutics”. *Social Research*. Vol. 47. No. 4. The New School. (1980). p 649.

¹² Ibid. 658.

as the hegemonic socio-economic ideology of the present is simultaneously definite and abstract. The fact that neoliberal as a system of organising human society and the economy is generally accepted; however, it is difficult to measure. To overly simplify; it is impossible to measure the effects of two units of neoliberalism on a state, society or the implementations of foreign policy as none of these variables are able to articulated in such a quantifiable manner.

Thus, by using a hermeneutical approach, an understanding of the phenomena in which the adoption of neoliberalism managed to affect the manner in which South Africa understands and articulated human rights in its foreign policy can be reached.

2.3 *Data collection and analytical approach*

The collection of the necessary data to will be achieved in three ways, firstly by engaging in case study research; particularly relating to major human rights issues. This will include, but are not limited to, the 1995 attempt to suspend Nigeria from the Commonwealth over human rights violations, the quiet diplomacy controversy over Zimbabwe in the early 2000s, and the denying of the Dalai Lama a visa to visit South Africa in 2011.¹³ These case studies each take place under a different presidential administration, and as such using these studies to gain data provides an ideal opportunity to observe the similarities and differences between the different administrations and their approach to foreign policy human rights issues. Furthermore, it will enable one to observe the evolution and entrenchment of neoliberal policies and approaches across the three administrations. The abovementioned case studies were selected as they were arguably the definitive human rights challenges for each respective administration.

Secondly, in order to obtain detailed data on the necessary matters, this paper will draw upon the online archives of the African National Congress (ANC), the government of South Africa as well as those of the UNSC and UNHRC. This work will also engage in policy evaluation, to observe the evolution of South Africa's foreign policy through the comparison of the Nelson Mandela's *South Africa's Future Foreign Policy* paper and the foreign policy papers produced by the Mbeki and Zuma administrations. This data is essential as these papers represent the formal foreign policy

¹³ Agencies. "SA denial of visa to Dalai Lama is unlawful". *Al-Jazeera*. 30 November 2012. <http://www.aljazeera.com/news/africa/2012/11/20121129202117413839.html>. Retrieved: 17/02/2016.

of the respective governments, and as such can reveal ideological development of the country's foreign policy as well as provide a template for comparison when analysing South Africa's practical international relations. Finally, this paper will also utilise the founding documents of international organisations, such as the African Union (AU), which South Africa helped found, and the recorded activities of the country in its participation in both these organisations and others of which South Africa is a member.

In order to understand the value of the data collected, a two pronged analysis approach will be undertaken. A document analysis will be utilised in order to assess and understand the value of the archival and policy documents. Secondly, a discourse analysis will be performed to gain a holistic understanding of the nature of the neoliberal agenda and its impact on South Africa's foreign policy, particularly during the more convoluted case studies used. During this discourse analysis, this research will investigate how South Africa internalised neoliberalism and how neoliberalism manifested itself in the South African context and from there gain an understanding of how it articulates human rights within this context.

2.4 Challenges and limitations

There were also several challenges presented in the course of this research. Firstly, a change to the processes and security protocols at the Department of International Relations and Cooperation (Dirco) resulted in the inability to access the Dirco archives. The implementation of the new protocol first led to a freeze in allowing public access to the archives. Following this, increased security and a rigorous application form resulted in the archivist not granting access to archives. This resulted in the loss of a potentially valuable source of data and insight into the decision making processes of those who designed South Africa's foreign policy over the past two decades. However, the online archives of the ANC and the general South African government were instrumental in overcoming this challenge.

Second, it must be noted that the chosen methodological approach does have some limitations. Primarily, due to the chosen methods of data collection and analysis, this paper will not be benefitting from interview statements by the actual decision makers, who may or may not have been consciously aware of the role of neoliberalism in South Africa's foreign policy. Secondly the

theoretical framework of basing the research in an understanding of neoliberalism and its critiques, does risk the exclusion of other valid theoretical understandings of the subject matter.

Third, this study limits itself to the realm of South Africa's foreign policy and more specifically to the understanding of the role of human rights within that policy. Accordingly, it will thus not be possible to engage in a holistic and in depth analysis on all aspects of the South Africa's international relations or a detailed discussion in the role of neoliberalism and/or human rights globally, or even throughout all layers of South Africa's domestic society.

Finally, as the author of this study, I must state, that I am South African citizen who has mostly grown up in post-Apartheid South Africa. As a result, I have had to contend with my pro-South Africa bias in these matters; however, I do believe that this was addressed and that this research was conducted in a fair and professional manner.

Chapter 3: Theoretical grounding and Literature Review

3.1 *Neoliberalism and its critique*

As can be clearly extrapolated from the above research questions, this paper will ground its research in a theoretical critique of neoliberalism, particularly from liberalism. In order to achieve this, the study will look at three broad categories of literature - literature on neoliberalism, literature on human rights and literature on South African foreign policy.

Neoliberalism emerged out of liberal theory, as an economic philosophy advocating *laissez-faire* economic ideals moving towards liberalised markets with an emphasis on private rather than public ownership. Neoliberalism has since developed into a theory addressing the complete spectrum of the social, economic and political spheres.

In his paper *Neoliberalism*, Tejaswini Ganti's describes neoliberalism as having four main referents.¹⁴ Firstly a set of economic reform policies which are concerned with the deregulation of the economy, the liberalisation of trade and industry, and the privatisation of state-owned enterprises.¹⁵ Second, a prescriptive development model that defines very different political roles for labour, capital, and the state, with tremendous economic, social, and political implications.¹⁶ Thirdly, an ideology that values market exchange as a civilisational guide for human actions with the capacity to replace ethical beliefs. And finally a mode of governance that embraces the idea of the self-regulating free market, with its associated values of competition and self-interest as the model for effective and efficient government.¹⁷

The paradigm established by Ganti also extends to the sphere of international relations by advocating a liberalisation of the global economy and a reduction to trade barriers. Furthermore, neoliberal international relations theorists argue for a belief in international institutions as a means of promoting global cooperation between states (as well as non-state actors). They argue that such institutions can enable jointly profitable arrangements and compromises. With specific regards to

¹⁴ Ganti, T. "Neoliberalism". *The Annual Review of Anthropology*. (2014). Pp90-91.

¹⁵ Loc Cit.

¹⁶ Loc Cit.

¹⁷ Loc Cit.

human rights, neoliberalism views human rights as a resultant effect of neoliberal policies. Neoliberalism views the market as an all-encompassing tool, which, when freed from the constraints of over regulation will, through natural market forces, result in conditions which will further the human rights agenda. This is better understood, when expressed via David Harvey's assertion that "an ethic in itself, capable of acting as a guide to all human action and substituting for all previously held ethical beliefs".¹⁸ In the words of Wendy Brown, "Neoliberal rationality, while foregrounding the market, is not only or even primarily focused on the economy; it involves extending and disseminating market values to all institutions and social action".¹⁹

3.2 *Liberalism and human rights*

The concepts of liberalism and human rights are intricately entwined and in essence cannot be discussed without a reference to the other. Liberalism, advocates a political order in which the state strives to ensure the freedom of individuals on a formally egalitarian basis.²⁰ The English philosopher, John Locke, is often credited with being the father of liberalism. Locke argued that all men have the right to life, liberty and property and that it was the role of the government to preserve and protect these natural rights. These assumptions lead to the classical liberal belief that a society should be based "on respect for the equality and autonomy of individuals, which through the recognition and application of the fundamental legal rights of the person."²¹ Liberalism was thus developed in the pursuit of the realisation of political and property rights and became a grounding philosophy behind the development of modern democracy.

Modern human rights theory also finds its roots in liberal theory. It developed gradually from the works of theorists such as Locke, Thomas Hobbes, and Hugo Grotius. Eventually, human rights theory developed into a discipline unto itself with a full spectrum of literature and multiple internal debates, not the least of which is whether human rights are universal or whether they are constructs which vary according to national context and culture.

¹⁸ Harvey, D. "Introduction". A Brief History of Neoliberalism. Oxford University Press. Oxford. p3.

¹⁹ Brown, W. "Neoliberalism and the End of Liberal Democracy". Theory and Event. Vol.7. No.1. (2003). p40.

²⁰ *Ibid.* p39.

²¹ Forsythe, D.P. Human Rights in International Relations. Cambridge University Press. Cambridge. (2000). p3.

However, the current human rights regime, as codified by the ICCPR, the ICESCR, CRC and importantly for this paper, the South African constitution, recognises human rights as a natural right of all people. This paper will thus proceed on the basis that the rights illustrated in the above documents are recognised as natural rights.

3.3 *Democratic theory*

Democratic theory is a political theory concerned with the “meaning of the concept of democracy, as well as the moral foundations, obligations, challenges, and overall desirability of democratic governance.”²² As a school of thought the theory is as old as recorded democracy and as diverse as the various manifestations of democracy which have been witnessed throughout history. This paper will focus, in particular, on the iteration known as liberal democracy. This is important as democracy has been adopted by liberalism as the preferred form of governance to ensure the human rights regime with which it became synonymous. This conjoining of the concepts of liberalism and democracy goes back to the earliest writings on the matter by Locke, and other liberal philosophers such as John Stuart Mill.²³

The modern-day human rights regime also views democracy as a fundamental human right as it is the preferred method of political self-determination, as outlined by the ICCPR. The South African Constitution also enshrines the right of self-determination; detailing a full spectrum of democratic rights.

Democratic theory also focuses on the need for liberal democracies to build strong, effective institutions - the law, elections, the police, civil society, to name but a few.²⁴ It is in this space, the need for strong institutions as well as the aforementioned obligation of government to ensure the effective protection of human rights that democratic theory finds its critique of neoliberalism.

²² Laurence, M. “Democratic Theory”. *Oxford Bibliographies*. 15 January 2015.
<http://www.oxfordbibliographies.com/view/document/obo-9780199756223/obo-9780199756223-0162.xml>. Retrieved: 05/01/2016.

²³ Cunningham, F. “Liberal Democracy”. *Democratic Theory: The philosophical foundations*. Routledge. London. (2002). p28.

²⁴ Brown. *Ibid.* p45.

As mentioned previously, neoliberalism reorders society into a system based on market values. This reordering, severely undermines democratic institutions and values. Neoliberalism, does not advocate that the state place the protections of the rights of its citizens as its prime concern, but rather market liberalisation. In the words of Harvey “The assumption that individual freedoms are guaranteed by freedom of the market and of trade is a cardinal feature of neoliberal thinking.”²⁵ This relegates, natural rights to a secondary concern. While advocates of neoliberalism argue that market liberalisation will lead to enhanced economic, social and political rights, this still relegates them to a by-product of the state's primary aim of economising the society in terms of market forces.

This relegation of rights runs directly counter liberalism’s fundamental principles. Furthermore, by attempting to disseminate market values to all institutions and social action, neoliberalism advocates for market stability of social progress. This need for stability, is irreconcilable with democracy and democratic theory, which advocates the ability of a populace to effect meaningful change through democratic institutions; most notably, the ballot box.

A strong democratic theory critique of neoliberalism can be found in Wendy Brown’s *American Nightmare: Neoliberalism, Neoconservatism and De-Democratization*. In which she describes neoliberalism as a system which “facilitates and legitimates arrogations of power by the state that would be unacceptable to a democratic culture or within a democratic table of values.”²⁶ In this statement Brown is describing neoliberalism as a system which is incompatible with democracy and democratic institutions as it “replaces strictures on democratic proceduralism and accountability with norms of good management: effectivity or profitability. Indeed, it sets aside legality, accountability, and truthfulness in favour of these criteria.”²⁷ Brown reiterates this in *Undoing Demos: Neoliberalism’s Stealth Revolution* which focuses on the manner in which neoliberalism “is quietly undoing basic elements of democracy.”²⁸

²⁵ Harvey. *Ibid.* p7.

²⁶ Brown, W. “American Nightmare: Neoliberalism, Neoconservatism and De-Democratization”. *Political Theory*. Vol. 34, No. 6. (2006). p 705.

²⁷ Loc Cit.

²⁸ Brown, W. *Undoing Demos: Neoliberalism’s Stealth Revolution*. Zone Books. (2015). p17.

This critique of neoliberalism can also be extended to our understanding of neoliberalism's impact on South African foreign policy. South Africa, is a constitutional democracy and sits upon liberal legal and philosophical foundations. As such, the country's governing policies, and by extension foreign policy, can be viewed as democratic institutions. Foreign policy in particular, is the manner in which the country engages with and influences the international sphere. The same criticisms of democratic theory of neoliberalism in the general, can be used to understand the specific impact neoliberalism has on South Africa's foreign policy. This is due to the fact that "neoliberal political rationality produces governance criteria along the lines of productivity and profitability."²⁹ This process of commodification and economisation pushes foreign policy to focus on profit "economic" outcomes rather than liberal democratic ones. This is necessary for the larger neoliberal foreign policy agenda as neoliberalism "figures a future in which cultural and national borders are largely erased, in which all relations, attachments, and endeavours are submitted to a monetary nexus". Meaning that the fundamental purpose of foreign policy in a neoliberal country is the pursuit of not only trade and profit but the realisation of greater market integration, possibly even a single global common market.

The literature discourse around neoliberalism, foreign policy and human rights is somewhat binary in nature, in that there is a plethora of work around the three themes, and the space in which they intersect; however, there is little seminal work done on the conceptual maelstrom in which the three themes intersect in the South African context. Accordingly, the literature around these issues must be addressed at first by understanding the three literatures individually and then how they interact with each other. Furthermore, due the specificity of the proposed paper, attention must be given to the discourse surrounding South Africa's foreign policy and its relationship with neoliberalism and human rights.

3.4 *Literature on neoliberalism*

Neoliberalism emerged as dominant political ideology in the second half of the twentieth century evolving from the post-World War II liberal regime. As an ideology it stemmed primarily from the field of economics as a terrarium in which the Friedman Chicago school of economics could

²⁹ Brown, W. "American Nightmare: Neoliberalism, Neoconservatism and De-Democratization". Political Theory. Ibid. p 694.

thrive. This school of thought advocates for minimal government regulation and that there should be little to no interference in the global market.

This being said, neoliberalism rapidly developed into a wide ranging socio-political economic ideology giving the market a place of primacy; highlighting this, David Harvey, in his seminal text *A Brief History of Neoliberalism*, points to the ramifications the neoliberalist belief in the market has across the full spectrum of human society.³⁰ Harvey then goes on to discuss the negative effects this market-oriented focus can have in the undermining and subsuming of alternative human ethical structures. This view is echoed by scholars such as Stephen Collier and Ganti, as well as Naomi Klein who in her work *Shock Doctrine*, is eviscerating when discussing the damaging effect of neoliberalism on the establishment and maintaining of a human rights based society.³¹

As illustrated in the previous chapter, when it comes to international relations, neoliberalism's market focused ideal is manifested by the concerted push to deregulate global markets and barriers to entry. Aside from using nation state actors to pursue this, there are several powerful neoliberal institutions which act towards opening global up global trade; the most evident of these is the WTO. While the WTO is the most obvious, institutions such as the International Monetary Fund (IMF) and the World Bank are, albeit more subtly, also strong advocates of neoliberal principles, through the borderline compulsory implementation of Structural Adjustment Programmes (SAP) in debtor states.

David Harvey points out that the belief that "individual freedoms are guaranteed by freedom of the market and of trade is a cardinal feature of neoliberal thinking."³² It is this cardinal feature of neoliberal theory behind the argument put forth by advocates of neoliberalism that the market liberalisation and trade is the best solution to addressing both domestic and global human rights challenges. This logic follows that, by liberalising markets states open up opportunities for their population and human rights aims will be achieved. Klein, among others, argues that this is

³⁰ Harvey. *Op Cit.* p7.

³¹ Klein, N. "Chapter 10: Democracy Born in Chains: South Africa's Constricted Freedom". *The Shock Doctrine*. Penguin. (2007).

³² Harvey, D. "Freedom is just another word...". *A Brief History of Neoliberalism*. Oxford University Press. Oxford. p7.

fallacious as it presumes the belief that inequalities will be naturally ironed out, and dictates an almost linear path of economic and social development.³³

3.5 *Literature on human rights*

The second body literature which needs to be addressed is that of human rights, and human rights theory. Like neoliberalism, human rights theory can find its modern roots in liberalism. While there has been a discourse around the concept of human rights throughout human civilisation, with rights being enshrined and discussed as far back as ancient Greece or even more ancient Zoroastrian society, the modern concepts of the ‘rights of man’ have origins stemming from the writings of enlightenment philosophers such as Locke, and Hobbes. International human rights and the belief in the need for human rights law, is credited to the Dutch jurist, Hugo Grotius.

It must be noted that modern human rights discourse was Eurocentric in its origins and parochial by nature. The rights discussed were largely considered the purview of Europeans and not those of subjugated or colonised peoples.

Human rights discourse and human rights theory developed alongside liberalism, and is arguably a definitive aspect of liberal ideology, right through to liberalism highpoint in the 1940s through 1960’s which saw the creation of the United Nations Charter (1945), International Covenant on Civil and Political Rights (ICCPR) (1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).

According to Darren J. O’Byrne in *Human Rights: An Introduction* there are three fundamental debates in human rights discourse, they are: “are human rights universal?”, “are human rights incontrovertible?” and “are human rights subjective?”.³⁴ The dominant liberal theory, supported by Jack Donnelly in *Universal Human Rights In Theory and Practice*, argues that human rights are indeed universal, incontrovertible and are not subjective.³⁵ It should be further noted that the Cold War-era debate between civil and political rights proponents and the supporters of economic

³³ Klein. Op Cit.

³⁴ O’Byrne, D.J. “Theorising Human Rights”. Human Rights: An Introduction. London. Routledge. (2003). Pp26-49.

³⁵ Donnelly, J. Universal Human Rights in Theory and Practice. Cornell University Press. Ithaca. (2013). p1.

and social rights, has largely been resolved and it is generally accepted that these categories of rights are intricately linked and interdependent on each other.

This universality of human rights is the founding belief by international human rights theory, whose supporters advocate the need to introduce a global human rights regime and international human rights norms. The literature around this issue is diverse, but can be grouped into two major camps, those such as David P. Forsythe who in his work *Human Rights and Foreign Policy: in the Next Millennium* is largely optimistic of what he sees as the increasing importance of human rights in the international affairs of states, pointing to promising developments in Europe and Africa.³⁶ The second camp is made up of those who have a far more negative outlook and see the gains made in global human rights advancement in the second half of the twentieth century being rolled back and undermined. In this group are people such as Costas Douzinas, author of *Seven Theses On Human Rights*, who wrote an opinion piece for The Guardian newspaper titled *The End of Human Rights* in which he despaired of the progress made across the world.³⁷

Like Klein, Douzinas is also severely critical of neoliberalism as it pertains to the human rights agenda, in the third of his *Seven Theses on Human Rights* he analysing the tendency of neoliberal policies to actually create increased inequality and poverty as well as damaging civil and political rights

3.6 *Literature on South Africa's Foreign Policy*

The third body of literature which this paper needs to review is that pertaining to foreign policy, and South African foreign policy in particular. Foreign policy is most commonly described as the means by which a state pursues its self-interest in the international arena; while correct this is a highly simplistic view of foreign policy. It subscribes to a belief that international relations is a zero-sum game and that the state conceptually will be an ideal Westphalian model nation state. It

³⁶ Forsythe, D. "Human Rights and Foreign Policy: In the Next Millennium". *International Journal*. Vol. 53, No. 1. Sage Publications. (1998) Pp 113-132.

³⁷ Douzinas, C. "The End of Human Rights". *The Guardian*. 10 December 2008. <http://www.theguardian.com/commentisfree/2008/dec/10/humanrights-unitednations>. Retrieved: 07/05/2015.

is also a definition which pre-dates the phenomenon of globalisation and as such cannot account for the various global pressures exerted on a state, and its articulation of its foreign policy.³⁸

When analysing foreign policy both conceptually and with specific regard to a state a social forces approach must be taken. This is particularly true when reflecting on the role neoliberalism in foreign policy. The literature on the social forces approach is dominated by Robert Cox.³⁹ Much of Cox's writings on social forces that impact foreign policy focusses on the concept of hegemony. According to Persaud, while reflecting on Cox's theories, hegemony is dialectical in nature and is constituted through a balance of coercion and consensus.⁴⁰ Through these means hegemony designates a system of social control. Using the above as a launching point, the strategic aim of the hegemon is to ensure that there is no fundamental change to the status quo and to thus pre-empt any challenge to the current order.⁴¹ Accordingly, the hegemon will frame any challenge as disorder and in turn advocate for stability. In fact, as pointed out by Persaud, "Stability itself is offered up as the most salient value of the international system".⁴² By creating this binary of chaos and disorder versus stability and prosperity, and stability being the most valued goal, any challenge to the dominant world order is effectively undermined with the challenger caste as the villain. Persaud highlights the ability of the hegemon to coerce and co-opt structural challenges to its authority and reduce them to internal disputes as opposed to a structural challenge. It should be noted that Cox, did not view hegemony as necessarily pertaining to a single state power, or even a bloc of states and considered this to be a rather outdated notion.⁴³ Cox views hegemony, as "a special kind of social power relation in which dominant groups secured their positions of privilege largely (if by no means exclusively) through consensual means".⁴⁴ Hegemony, thus represents a contested relation of social power encompassing a vast array of human expression, including the

³⁸ Persaud, R.B. "A Social Forces Approach to Foreign Policy" in Counter-Hegemony and Foreign Policy. SUNY. p 50

³⁹ Rupert, M. "Antonio Gramsci". in Jenny Edkins and Nick Vaughn-Williams (eds) Critical Theorists and International Relations. Routledge. p 176

⁴⁰ Persaud, R.B. "A Social Forces Approach to Foreign Policy" in Counter-Hegemony and Foreign Policy. SUNY. p 37.

⁴¹ Ibid p 38.

⁴² Persaud, R.B. "A Social Forces Approach to Foreign Policy" in Counter-Hegemony and Foreign Policy. SUNY. p 39.

⁴³ Rupert, M. "Antonio Gramsci". in Jenny Edkins and Nick Vaughn-Williams (eds) Critical Theorists and International Relations. Routledge. p 177

⁴⁴ Loc Cit.

social, cultural economic and political, with the potential to be transnational and even global in scope.⁴⁵ With this understanding, a global system of economic ideology can be viewed as a global hegemony underpinned by social forces driven by the agents and actors which advocate for a neoliberal world. This has been used multiple times in the past few decades to describe the ascendancy of neoliberalism as the governing ideology of the global economy by scholars such as Enrico Augelli, Craig Murphy and Stephen Gill.⁴⁶

It should however be noted that there are other social forces at play impacted South Africa's foreign policy decisions over the past twenty years. Due to the history of the country, the role and impact of Apartheid on the country's current psyche really cannot be undermined. It is primarily due to this past of violence and oppressions why the role of human rights is so important to the South African policy discourse. This is illustrated in the ANC's Apartheid-era foreign policy, which was driven by the need to challenge the Apartheid government on the global stage. This foreign policy placed a heavy emphasis on human rights and advocated the need for the active pursuit of the human rights agenda. This policy was codified in 1991 at the ANC's 48th national conference in the *Adopted Resolution on Foreign Policy*.⁴⁷ This policy was only formally adopted in 1991 as the ANC had been unable to hold a national conference since 1959 due to the organisation being banned in South Africa. This document shows a clear call for the party to unify the international community against Apartheid and reaffirm the principles laid out in the Freedom Charter and the Harare Declaration as a guide to its foreign policy objectives. Both of those documents call for a radical approach to achieving human rights objectives.

These historical forces, must be accounted for when analysing the ability of the state to pursue such an agenda, both in the intent and ideology behind such a goal, but also in any potential structural challenges remaining from the previous regime which could present challenges to such an ambition.

⁴⁵ Ibid p 178.

⁴⁶ Rupert, M. "Antonio Gramsci". in Jenny Edkins and Nick Vaughn-Williams (eds) Critical Theorists and International Relations. Routledge. p 178.

⁴⁷ ANC. Adopted Resolution on Foreign Policy at the 48th National Conference. 6 July 1991.

It is only through understanding the relevant social forces that the literature analysing foreign policy and human rights can be fully engaged. However, it should be noted that due to the scale and nature of foreign policy, focus shall be placed on the debate around the role of human rights in South Africa's foreign policy and obviously the role of neoliberalism in this articulation.

On this front, there is mixed discourse with authors such as Irvine Alyson Brysk who argue that the country does actually advocate a human rights-based agenda in its foreign policy. She writes about South Africa in chapter eight of her book *Global Good Samaritans: Human Rights as Foreign Policy* which is titled "From Pariah to Promoter, South Africa".⁴⁸ However, this chapter title is emblematic of the side of the argument which advocates that South Africa has a strong human rights record in its foreign policy; as evidenced by the phrase "pariah to promoter", this writing compares Apartheid foreign policy with South Africa's post-Apartheid international relations. This is problematic as it creates an obvious assertion that modern South Africa is a human rights promoter, as it is no longer a pariah state considered one of the world's worst human rights violators.

The literature which compares modern-day South Africa with its post-Apartheid history is not quite as flattering. Here the discourse tends to focus around two debates. The first is whether South Africa's mixed record on human rights is a natural by-product of normalising into a middle-income state and that the pragmatic practicalities of statehood do not permit the non-negotiable advocacy of a human rights agenda. The second whether or not South Africa has actually begun to slide and even ignore the human rights imperative outlined in its Constitution when it practices foreign policy.

As mentioned above, there is sparse literature which addresses the three main themes of neoliberalism, foreign policy and human rights; however, this does not mean there is no literature. A useful article in this regard is the 2009 paper, *South Africa's Foreign Policy: Hegemonic Aspirations, Neoliberal Orientations and Global Transformation* by Adam Habib.⁴⁹ In this article

⁴⁸ Brysk, I. A. "Chapter 8: From Pariah to Promoter, South Africa". *Global Good Samaritans: Human Rights as Foreign Policy*. Oxford University Press. Oxford. (2009). p 171.

⁴⁹ Habib, A. "South Africa's Foreign Policy: Hegemonic Aspirations, Neoliberal Orientations and Global Transformation". *South African Journal of International Affairs*. Vol. 16. No, 2. Routledge. (2009). p 143.

Habib addresses the development from 1994 until 2008 of South Africa's foreign policy, depicting the policies of the Nelson Mandela and Thabo Mbeki administrations and important noting the emergence of neoliberalism in the country's foreign policies. Habib observes that this resulted in a foreign policy which increasingly began to prioritise the market and bring South African and foreign transnational corporations to the forefront of the country's foreign policy ambitions. It is this observation of the neoliberalisation/corporatisation of South African foreign policy that Habib does tangentially address the declining role of human rights in foreign policy decisions. However, Habib fails to fully engage on the declining or changing role of human rights in foreign policy. Furthermore, Habib published this paper in 2009 and as such it is unable to address the further developments that have occurred during the Kgalema Motlanthe and Jacob Zuma presidential years. Chris Landsberg has published articles, such as *Continuity and Change in the Foreign Policies of the Mbeki and Zuma Governments* in *Africa Insight*, analysing the various similarities and differences between the Mbeki and Zuma administrations' foreign policies.⁵⁰

However, this literature fails to fully address the deeper ideological drives which articulate a state's foreign policy and it is here where there is notable gap in the literature discourse surrounding the issues of the impact that neoliberalism has had on the articulation of the role of human rights in South African foreign policy.

⁵⁰ Landsberg, C. "Continuity and Change in the Foreign Policies of the Mbeki and Zuma Governments". *Africa Insight*. Vol. 41. No. 4. EISA. 2012.

Chapter 4: A new South Africa and a new South African foreign policy

On 10 May 1994, the newly inaugurated President Nelson Rolihlahla Mandela, announced the beginning of the new democratic Republic of South Africa with the ringing call that “Never, never and never again shall it be that this beautiful land will again experience the oppression of one by another and suffer the indignity of being the skunk of the world”.⁵¹ This was a clear statement to the nation and the world, that the once pariah state of South Africa, would now be one that concertedly pursued a human rights agenda both home and abroad.

The fledgling ANC government was understandably far more focussed on its domestic agenda than its foreign policy in these early days of governance. The country needed to be rebuilt, a new constitution had to be written to address the political and economic inequalities left behind by Apartheid. Foreign policy was largely perceived to be dictated by the presidency and essentially by the president himself, with the new minister of foreign affairs, Alfred Nzo, dutifully carrying out the new government's decisions. In the early years of the Mandela administration foreign relations, were dominated by South Africa's normalising of relations with the rest of the world following years of sanctions. Accordingly, South Africa, and her new government were held in great prestige across the globe, particularly the President Mandela, who had become the face of the transition and was regarded as an elder statesman and an ambassador of peace.

Those who were looking for a more concrete understanding of the new country's foreign policy in the post-Apartheid years were directed to an article attributed to Nelson Mandela published in *Foreign Affairs* in its 1993 November/December issue titled *South Africa's Future Foreign Policy*.⁵² In this paper a vision for a new approach to the country's international relations was laid out. The paper outlined six pillars on which the ANC wished to base South Africa's future foreign policy. They were:

⁵¹ Mandela, N. Statement of Nelson Mandela at his Inauguration as President. Pretoria. 10 May 1994.

⁵² Mandela, N. “South Africa's Future Foreign Policy”, Foreign Affairs. Vol. 72, No. 5. Council of Foreign Relations. Pp 86-97.

- That issues of human rights are central to international relations and an understanding that they extend beyond the political, embracing the economic, social and environmental;
- that just and lasting solutions to the problems of humankind can only come through the promotion of democracy worldwide;
- that considerations of justice and respect for international law should guide the relations between nations;
- that peace is the goal for which all nations should strive, and where this breaks down, internationally agreed and nonviolent mechanisms, including effective arms-control regimes, must be employed;
- that the concerns and interests of the continent of Africa should be reflected in our foreign-policy choices; and
- that economic development depends on growing regional and international economic cooperation in an interdependent world.⁵³

It was evident by its placement as the first pillar, that the Mandela administration wished to place human rights at the forefront of its foreign policy and that the administration viewed human rights as the full spectrum including political, social, cultural and environmental rights.

Following the resounding ANC victory in the 1994 elections, South Africa appeared to begin to put this policy into action. By the end of that year, South Africa had become signatory to the ICCPR, the ICESCR, and the International Convention on the Elimination of All Forms of Racial Discrimination.⁵⁴ The following year South Africa ratified the CRC, and the Convention on the Elimination of All Forms of Discrimination against Women.⁵⁵ The country further contributed to global causes of peace, such as teaming up with Canada and New Zealand in the pursuit of the elimination of anti-personnel landmines.⁵⁶ These steps were most welcome by human rights

⁵³ Loc Cit

⁵⁴ OHCHR. "Ratification Status for South Africa". United Nations Human Rights:Office of the High Commissioner. http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=162&Lang=EN. Retrieved: 11.01.2016.

⁵⁵ Loc Cit

⁵⁶ Barber, J, "The New South Africa's Foreign Policy: Principles and Practice". International Affairs. Vol. 81. No. 5. Wiley. 2005. p 1082.

organisations and the international community for South Africa had been absent from these major human rights conventions for almost thirty years.

In December 1994, the ANC released a policy document titled *Foreign Policy Perspective in a Democratic South Africa* which reiterated a human rights based approach to foreign policy, restating the six principles outlined in *South Africa's Future Foreign Policy* and including an additional principle that of “a belief that our [South Africa's] foreign relations must mirror our deep commitment to the consolidation of a democratic South Africa.”⁵⁷ In fact this policy document included stronger language on the role human rights stating that “Human rights will also influence the shape of our bilateral relations. In this we shall not be selective nor, indeed be afraid to raise human rights violations with countries where our own and other interests might be negatively affected.”⁵⁸ This is strong language committing the party and by default the country to an aggressive pursuit of the human rights agenda even if this would run counter to short term economic and political international ambitions. This commitment to human rights was underscored with the signing of the new constitution of South Africa on 10 December 1996. The new constitution enshrined the rights of all peoples and included almost all the rights listed in the international bill of rights.⁵⁹ The new constitution was lauded as one of the most progressive in the world.

However, just over a year earlier in November of 1995, South Africa's commitment to human rights as a cornerstone of its foreign policy had its first major test.

⁵⁷ ANC. Policy Documents: Foreign Policy Perspective in a Democratic South Africa. 1 Dec 1994.

⁵⁸ Loc Cit

⁵⁹ The international bill of rights consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights with its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights. All of which as mentioned South Africa was now a signatory to.

Chapter 5: Nigeria and the Commonwealth

5.1. *Nigeria and the Ogoni nine*

During this period in the mid-nineties, when much of the world's focus on Africa revolved on the narrative of the South African success story and the possibility of a democratic resurgence on the continent, the continent's most populous nation, Nigeria, was ruled by the military dictatorship of General Sani Abacha. In 1995, the Abacha regime was facing resistance with protests in the country's south by members of the Movement for the Survival of the Ogoni People (MOSOP). This organisation advocated non-violent protest as a means of calling for greater autonomy for the Ogoni people as well as for cultural, economic and environmental justice in Nigeria. Environmental damage related to the oil industry in the Niger Delta was a key concern of MOSOP, particularly relating to the operations of the oil giant, Royal Dutch Shell.

In June 1995, the Abacha regime ordered the arrest of nine MOSOP activists including Nobel Peace Prize nominee Ken Saro-Wiwa for the 21 May 1995 murder of four Ogoni chiefs. The subsequent trial which was held in October of that year was widely considered a farce, and the Ogoni nine were convicted of murder and of plotting a coup d'état and were sentenced to death.⁶⁰

President Mandela viewed this as human rights violation and began petitioning the Abacha regime to reverse this decision. This diplomatic offensive to convince Abacha to free the Ogoni nine featured visits from then deputy-president, Thabo Mbeki, and Archbishop Desmond Tutu.⁶¹ This was still an ongoing and well publicised issue when Mandela left for South Africa's first post-Apartheid meeting of the Commonwealth Heads of Government in November 1995.

5.2 *The condemning Nigeria - Actions and reactions*

At first when questioned by the media on the Ogoni nine Mandela was reportedly sanguine, evidently confident that a solution would be achieved. However, on 10 November 1995, while the

⁶⁰ McGregor, K. "Ogoni Nine hanged as indifferent West failed to respond". *Independent*. 18.09.2000. <http://www.independent.co.uk/news/world/africa/ogoni-nine-hanged-as-indifferent-west-failed-to-respond-699325.html>. Retrieved: 11/01/2016.

⁶¹ Barber, J, "The New South Africa's Foreign Policy: Principles and Practice". *International Affairs*. Vol. 81. No. 5. Wiley. 2005. p 1082.

Commonwealth heads of states were gathered in Auckland, New Zealand the Ogoni nine were executed.

This led to global condemnation of the Abacha regime for the executions. Nelson Mandela, blindsided and angry over the action, called upon the gathered delegates to suspend Nigeria from the Commonwealth as a punitive measure for the execution of the activists.⁶² This was done with remarkable speed and the action was supported by almost all member states, with The Gambia being the solitary dissenting vote.⁶³ Mandela, however, wanted stronger action, recalling the South African high-commissioner from Nigeria and calling upon other states to act likewise. The fifteen members of the European Union (EU) followed suit recalling their diplomatic envoys in protest of the executions.⁶⁴ South Africa went even further calling on the West to boycott Nigerian oil exports and called an extraordinary meeting of the Southern African Development Community (SADC) in which a coordinated action to pressure Nigeria could be discussed. Mandela clearly wished to galvanise the world to ostracise Nigeria in order to prioritise human rights and lead to the ascent of democracy in the country. He believed that following the success of such actions in ending Apartheid in South Africa the global community would more easily be rallied in defence of human rights across the world.

Unfortunately Mandela was to be disappointed. The West continued to consume Nigerian oil, and SADC, Africa and the globe had no appetite for a diplomatic confrontation and sustained campaign against Nigeria. Moreover, despite all the other African members (aside from The Gambia) voting in favour of Nigeria's expulsion South Africa was criticised by African states for breaking with African unity in its criticisms and actions against Nigeria.⁶⁵ Even within South Africa and the ranks of the ANC, the presidency was criticised for acting against the Abacha regime. Nigeria had been a supporter of the ANC in exile and had contributed heavily to the ANC's election campaign finances in 1994.⁶⁶ In face of this onslaught South Africa began to backpedal, with Mbeki going

⁶² Reuters. "Commonwealth Suspends Nigeria over Executions". The New York Times. 12 November 1995. <http://www.nytimes.com/1995/11/12/world/commonwealth-suspends-nigeria-over-executions.html>. Retrieved:11/01/2016.

⁶³ Loc Cit

⁶⁴ Loc Cit

⁶⁵ Barber Op Cit. p1084.

⁶⁶ Loc Cit

so far as to claim that the West had manipulated Mandela in an attempt to ridicule him.⁶⁷ In reality South Africa had acted according to its policy laid out in *South Africa's Future Foreign Policy* and the ANC's *Foreign Policy Perspective in a Democratic South Africa* and they had been exposed to the risks and consequences of doing so.

⁶⁷ Loc Cit

Chapter 6: The beginnings of the “Mbeki Era”

6.1. *A small step back from international human rights*

Whether or not the fallout over the condemnation of the execution of the Ogoni nine was a tipping point is unclear, but what is clear is that South Africa’s foreign policy began to appear a lot less binary in its approach to the international human rights question. Despite the signing of the new constitution which enshrined the full canon of human rights as legally protected throughout South Africa, by the end of 1996 the ANC, and by extension, South Africa had begun to soften on its aggressive pursuit of international human rights. In a Department of Foreign Affairs green paper discussion document over foreign policy from 1996 shows a noticeable downplaying of the human rights question and a distinct rise in economic diplomacy.⁶⁸ The paper calls for “practical foreign policy objectives and priorities...” and seems to state that South Africa should follow international best practice in its pursuit of foreign policy as opposed to its previous trend of charting its own path.⁶⁹ Unlike previous foreign policy papers such as *South Africa’s Future Foreign Policy* and *Foreign Policy Perspective in a Democratic South Africa* this green paper does not place the human rights discussion foremost in the discussion but rather addresses human rights in section four subsection seven, where it does reiterate that “the advancement of human rights and the promotion of democracy are pillars on which South Africa’s foreign policy rests.”⁷⁰ However, the document immediately notes that “development assistance is, in many cases linked to democratisation programmes, the observance of human rights and the exercise of good government.”⁷¹

Section five of the green paper is titled *Redefining South African foreign policy* this redefinition is essentially a pivot towards a focus on economic diplomacy and trade. The most revealing points in this section are that among the numerous “additional cornerstones and main preoccupations of South Africa’s foreign policy” a move towards international best practice. This included the need

⁶⁸ ANC. Foreign Policy for South Africa: Discussion document. 1996.
<http://www.gov.za/documents/foreign-policy-south-africa-discussion-document-0>. p11. Retrieved 11/09/2015.

⁶⁹ Ibid p22.

⁷⁰ MFA. Foreign Policy for South Africa: Discussion document. 1996.
<http://www.gov.za/documents/foreign-policy-south-africa-discussion-document-0>. Retrieved 11/09/2015. p 17.

⁷¹ Loc Cit

for “quiet diplomacy”, which the paper defines as “not diplomacy through the media”.⁷² However, the most notable point in this green paper is the inclusion as a new cornerstone of South African foreign policy is that “South Africa supports the global free trade system”.⁷³ These statements clearly show a distinct intention by the Department of Foreign Affairs to shift policy to fall in line with the dominant neoliberal regime of the time. This shift is compounded in section seven of this green paper titled “Bilateral relations”. The first subsection, entitled “Point of departure”, this divergence is with previous policy documents, in particular *Foreign Policy Perspective in a Democratic South Africa* which memorably said that

“Human rights will also influence the shape of our bilateral relations. In this we shall not be selective nor, be afraid to raise human rights violations with countries where our own and other interests might be negatively affected.”⁷⁴

This standpoint is not so much as departed from as refuted in the MFA green paper, as the document states:

“The Government has adopted the view that South Africa's relations with countries should be a matter of bilateral concern between the particular country and South Africa. In applying the principle of universality, South Africa as a sovereign state should consider its national interests when conducting relations with other states. Two related aspects should be clearly understood. By trading or concluding diplomatic relations with a particular country South Africa is not expressing approval of the domestic policies of that country's present government. The President and the Minister of Foreign Affairs have often stated that South Africa will promote human rights and democracy as fundamental principles in the conduct of foreign relations. It could be argued that the most basic reason for establishing diplomatic relations is to create a channel of communication, which, in fact, is then used to convey to the government of that country the values which South

⁷² Ibid p22.

⁷³ Loc Cit

⁷⁴ ANC. Policy Documents: Foreign Policy Perspective in a Democratic South Africa. 1 Dec 1994

Africa promotes and propagates. In essence, the approach followed is that communication and persuasion could be more constructive than isolation.”⁷⁵

Essentially, this says that the South African government will no longer make human rights a decisive factor in its engagements with other states, but rather will only call for it in principle. Even further this document argues that South Africa would be more successful in championing human rights through trade with other human rights violators as by fostering trade and diplomatic relations these states will be more likely to listen to and learn from South Africa. The final phrase “In essence, the approach followed is that communication and persuasion could be more constructive than isolation” is in direct contrast to the position taken by the early Mandela administration, which applauded the international community for its overt pressure and isolation of the Apartheid regime. In this paper it is possible to see the evolution of South Africa’s foreign policy towards the positions it held under the Mbeki administration, particularly towards Zimbabwe. This, however, will be addressed later in this paper.

This being said the Mandela administration did not forego the pursuit of a human rights agenda altogether. In 1997 the South African president was commended for his assistance in mediating crises as far abroad as Northern Ireland and East Timor.⁷⁶ On the African continent, he led South Africa in the pursuit of achieving peace in countries such as the Democratic Republic of the Congo, and Burundi.⁷⁷ All the while continuing to reintegrate South Africa in the world and joining and participating global institutions. South Africa only joined SADC and the Organisation of African Unity (OAU) in 1994 and by the end of his presidency had developed South Africa into a major player in both these organisations.

However, South Africa’s first post-Apartheid government was not beyond criticism in its approach to international human rights. The regime was often criticised (predominantly by western powers)

⁷⁵ MFA. Foreign Policy for South Africa: Discussion document. 1996.
<http://www.gov.za/documents/foreign-policy-south-africa-discussion-document-0>. Retrieved 11/09/2015. p 36.

⁷⁶ Firsing, S. “Remembering Mandela” International Policy Digest. 6 December 2013.
<http://www.internationalpolicydigest.org/2013/12/06/remembering-mandelas-foreign-policy/>. Retrieved: 13/01/2016.

⁷⁷ Loc Cit.

for its cosy relations with alleged human rights abusers such as Muammar Gaddafi and Fidel Castro, both of whom supported the ANC in its fight against the Apartheid state during its years in exile.⁷⁸ This was similarly the reasoning behind South Africa's eventual capitulation on Beijing's 'one China' policy; removing formal recognition of Taiwan.

In December 1997, Nelson Mandela voluntarily stepped down as the leader of the ANC at the party's elective conference and was replaced by his deputy, Mbeki. Mandela would remain state president until the next elections in 1999, but a new team headed by Mbeki would be in charge of the political agenda within the party. It was at this point that the transition of policy decision making from Mandela to Mbeki essentially occurred.

6.2. Neoliberalism at home?

While this paper does focus on South Africa's foreign policy, it is necessary to also briefly account for what was occurring domestically in South Africa.

The end of Apartheid came about as a negotiated settlement largely between the ANC and the Apartheid government; accordingly, there were major sections of the state that the ANC was unable to immediately overhaul. The ANC ended up negotiating away certain pillars of their pre-1994 policies such as nationalisation and rapid transformation, policies which had been a hallmark of the ANC since the signing of the Freedom Charter in 1955.⁷⁹ During the Convention for a Democratic South Africa (Codesa) negotiations, much of the ANC's economic goals were sacrificed for its political goals and as a result, there was little radical action the party could take to transform the economy.⁸⁰ It should be noted that the chief economic negotiator for the ANC at this time was the British-educated Thabo Mbeki.

Despite these hindrances to economic development the administration appeared determined to correct the economic imbalances in South Africa at the time. In 1994, the government introduced the Reconstruction and Development Programme (RDP) a socio-economic policy framework

⁷⁸ Loc Cit.

⁷⁹ Klein, N. "Chapter 10: Democracy Born in Chains: South Africa's Constricted Freedom". *The Shock Doctrine*. Penguin. (2007). p195

⁸⁰ Ibid p200

devised by the ANC in consultation with South Africa's largest labour federation, the Congress of South African Trade Unions (Cosatu), as well as the South African Communist Party (SACP).⁸¹ This programme was popular and made progress towards correcting the worst of Apartheid's imbalances. However, in 1996 the same period that saw a shift in language in ANC and South African foreign policy papers towards human rights, the RDP was subsumed by a new programme called 'Growth Employment and Redistribution (GEAR), which purported to have the same aims as RDP but also included neoliberal policy hallmarks of fiscal discipline, inflation targeting and the limiting of government expenditure.⁸² In the years since its introduction GEAR has been vilified and the move away from the RDP criticised. GEAR was a five year plan and clearly intended to be a beginning of the Mbeki administration, which officially only began in 1999, but as mentioned above, began having extensive influence over policy much earlier.

6.3 *AU, Nepad and the African Renaissance*

The Mbeki era is of particular concern to this paper as the 10 years in which Mbeki directed South African policy, 1997-2007, covers approximately half the time period which this paper is focusing on, 1994-2014. Furthermore, this era saw some of these most proactive foreign policy decision making by South Africa and attempts by the country to position itself as a regional leader, and by extension a significant global player. During the Mbeki presidency, South Africa led the formation of the African Union (AU) out of the OAU, the creation of the New Partnership for Africa's Development (Nepad) and the evolution of SADC from an economic bloc to one that acted with more political intent as well. Taking the lead in the creation and development of these institutions also resulted in South Africa deploying peacekeeping troops on humanitarian missions throughout the continent. The Mbeki administration also oversaw what was probably the most controversial human rights issue of post-Apartheid South Africa; which was its handling of and approach to the burgeoning crisis in Zimbabwe in the early 2000s.

⁸¹ Anon. "The Reconstruction and Development Programme (RDP)". Nelson Mandela Centre of Memory. (1994) <https://www.nelsonmandela.org/omalley/index.php/site/q/03lv02039/04lv02103/05lv02120/06lv02126.htm>. Retrieved: 13/01/2016.

⁸² Manuel, T; Marcus, G & Ramos, M. Growth, Employment and Redistribution a Macroeconomic Strategy. Department of Finance. (1996).

Thabo Mbeki was voted in as the leader of the ANC in December 1997 replacing the exiting Nelson Mandela, who had decided not to remain for a second term. Needless to say Mbeki was filling rather big shoes and there were high expectations for him to perform. However, as deputy president of South Africa (and the ANC), Mbeki had been playing a notable role in policy formulation, a role which had been increasing and would naturally grow ahead of the national election. Arguably it was Mbeki who was behind the 1996 pivot towards a more pragmatic foreign policy with a less aggressive approach to human rights. The period between the ANC elective conference and the 1999 national elections were mostly unremarkable as the Mandela government continued to focus on the building and transformation of South Africa and ensuring a smooth transfer to the incoming Mbeki administration - there was little doubt that the ANC would lose the upcoming vote.

As expected, the 2 June 1999 election returned the ANC to power with a resounding majority and on 14 June 1999 Thabo Mvuyelwa Mbeki was inaugurated as the second president of a democratic South Africa. This was, as pointed above, more of a continuation of policy than noting any real change at this stage; Mbeki kept many stalwarts from the previous administration notably retaining the finance minister, Trevor Manuel - co-author of GEAR - in his position as head of the treasury. He did however move Nkosazana Dlamini-Zuma from the health portfolio to minister of foreign affairs; a position she held for the entirety of his tenure as president.⁸³ Mbeki and Dlamini-Zuma would prove to be an effective team in the coming years, enacting an ambitious foreign policy programme; particularly in regards to the African continent.

Mbeki had a distinctive vision for what he wanted to achieve in Africa during his tenure; a vision he regularly termed an 'African Renaissance' and immediately set about trying to achieve this. He was a leading figure in the transformation of the OAU into the AU. This African Renaissance had been an ambition of the new president from his days as deputy president. Three months after his election the OAU convened in Sirte, Libya adopting the Sirte Declaration calling for the establishment of the AU. In 2000 the Lome Summit was held in Togo where the AU Constitutive Act was adopted. In 2001, the Lusaka Summit in Zambia drew up the road map for implementation

⁸³ ANC. Cabinet as Announced by President Thabo Mbeki - 17 June 1999.
<http://www.anc.org.za/elections/1999/news/en061800.html>.

and it was in 2002 when Mbeki proudly hosted the African continent in Durban, South Africa where the AU was born convening its very first ‘Assembly of Heads of State and Government’.⁸⁴

It was during this time that Mbeki also helped launch Nepad; which is essentially a regional socio-economic framework adopted by the OAU/AU. Nepad was launched in 2001 at the with the signing of the Nepad founding document, which itself define Nepad as “a pledge by African leaders, based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development and, at the same time, to participate actively in the world economy and body politic.”⁸⁵ This document also states that the primary aim of this pledge is to “consolidate democracy and sound economic management on the continent.”⁸⁶

While Nepad’s success over the past decade can be debated, the ambitions outlined in the founding document are commendable. The document outlines aims to reduce poverty, increase education, health services, infrastructure, tackle climate change, environmental protection, conflict prevention and to advocate democracy and good governance across the continent.

In the latter ambition, Nepad introduced the African Peer Review Mechanism (APRM), a policy tool designed to encourage self-reflection and accountability among African states. The APRM is also Nepad’s chief means of encouraging human rights on the continent. However, the APRM relies on countries to fully engage with their shortcomings or at least their neighbours to hold them accountable. Given these challenges the APRM has struggled to be an effective mechanism in promoting democracy and good governance with many states not even conducting the necessary processes to fulfill the APRM requirements.⁸⁷ This is true for South Africa, particularly in its failure to use the APRM to address the Zimbabwean crisis.

A close reading of the Nepad founding document does reveal a strong undercurrent of neoliberal thought underpinning much of the approach to achieving several of these aims. Most overtly, the

⁸⁴ AU. History of the OAU and the AU. <http://www.au.int/en/history/oau-and-au>. Retrieved:13/01/2016.

⁸⁵ Anon. The New Partnership for Africa’s Development (Nepad). 2001. p1.

⁸⁶ Ibid, p 58.

⁸⁷ Ndlovu-Gatsheni, S.J. “Bob is Peerless: Zimbabwe and the Quest for an African Peer Review Mechanism”. Governance and State delivery in Southern Africa. NAI. Uppsala. (2007). p 43.

document calls for partnership and collaboration with two of the world's premier neoliberal institution, the IMF and the World Bank.⁸⁸ Furthermore in Section C of the document, in which it addresses mobilising resources, capital flows and market accessibility the documents discusses the need for African states to deepen and integrate financial markets in the continent to facilitate the private capital flows.⁸⁹ The most important nod to the neoliberal underpinnings given by the Nepad founding document is its call for trade liberalisation and to enforce and institute the rules and policies of the WTO.⁹⁰ In fact to many commentators these underpinnings are not so sub textual and that Nepad is essentially a neoliberal institution itself. Key among these critics is Patrick Bond who described Nepad as a “home-grown version of the Washington Consensus”.⁹¹

It should be noted though that, this document also advocates a need for Africa to place regional integration and market liberalisation ahead of global market integration and the need to act as a cohesive unit when engaging with the IMF, World Bank and the WTO. This can surely be taken as an acknowledgement of the pitfalls to developing countries when rabidly opening up to industrialised nations and pursuing the policies insisted on by the these neoliberal institutions. Nepad's call for collaboration with the WTO brings the discussion around to the Mbeki administration's relationship with that same organisation.

6.4 *The WTO and South Africa*

South Africa, already a member of the General Agreement on Trade and Tariffs (GATT), ratified the Marrakesh Agreement in December 1994 and thus becoming one of the founding member of the WTO when it came into being on 1 January 1995. In doing so South Africa agreed to the principles of trade liberalisation and market economics which underpin the WTO. Yet in the early years, South Africa was wary of the WTO. In 1998 Mandela delivered a speech to the organisation on the 50th anniversary of GATT, in which he struck a very cautious tone, playing up the

⁸⁸ Anon. *The New Partnership for Africa's Development (Nepad)*. Op Cit. p 29.

⁸⁹ Ibid p 39.

⁹⁰ Ibid p 48.

⁹¹ Lee, D. “South Africa in the WTO”. In: Lee, Donna and Taylor, Ian and Williams, Paul D., eds. *The New Multilateralism in South African Diplomacy*. Palgrave , Houndmills, Basingstoke. (2006). p 62.

organisation's potential, yet warning of its potential pitfalls. Particularly the need to reduce income inequality and that the WTO cannot ignore labour standards in its member nations.⁹²

Yet under Mbeki's presidency, South Africa became a much more active and enthusiastic member of the WTO, arguably due to the opportunity it offered for South Africa to situate itself as a facilitator between the developed countries and the developing and less developed countries, especially those in Africa.⁹³ This was a continuation of the role in which Mbeki had been casting the country in his pursuits of the AU and Nepad.

In the context of the WTO, South Africa positioned itself in order to attempt to facilitate negotiations between the global North and the global South in dialogue over the WTO's most divisive issues.⁹⁴ According to Donna Lee, South Africa's "deep and extensive network of bilateral and regional relationships with developing countries, particularly African countries, as well as the majors [major industrialised powers], provides at least a diplomatic potential for Pretoria to be able to successfully pursue its economic and strategic interests in the WTO utilising a middle power facilitating diplomacy".⁹⁵ This positioning into a facilitator role does give South Africa opportunity to advance its own trade interests within the WTO since the adoption of GEAR in 1996, South Africa's development agenda placed a dependency on export-led economic growth. This emphasis on exports placed a great importance on the role of the WTO, for as Lee puts it "no country, but especially developing countries, can afford to remain outside the WTO regime."⁹⁶ Pretoria, as already mentioned however, did not just join in the WTO it was an enthusiastic participant and by casting itself as a North/South facilitator also located itself firmly in a neoliberal orthodoxy in its acceptance of the fundamentals of the WTO. In fact Lee claims that "South Africa's commitment to neoliberal principles is sweeping and consistent" a fact which has often made its facilitator role challenging, in so far as by casting itself as such South Africa's success within the WTO is based on its ability to sell neoliberal principles to the Southern states.⁹⁷ This is

⁹² Mandela, N. Address by President Mandela on the occasion of the 50th Anniversary of the General Agreement on Tariffs and Trade (GATT). Geneva. 19 May 1998.

⁹³ Lee, D. "South Africa in the WTO". In: Lee, Donna and Taylor, Ian and Williams, Paul D., eds. *The New Multilateralism in South African Diplomacy*. Palgrave, Houndmills, Basingstoke. (2006). p 51.

⁹⁴ *Ibid* p 60.

⁹⁵ *Loc Cit*.

⁹⁶ *Ibid* p 51.

⁹⁷ *Ibid* p 63.

particularly difficult given the inherent distrust of most developing states towards the WTO and its processes, this has in turn occasionally resulted in criticism of South Africa itself.⁹⁸

South Africa's embrace of neoliberalism in international organisations like the WTO, and even in the institutions itself helped found, such as Nepad, illustrate the increasing hold in which the contemporary capitalist ideology had over the state. It is important to understand the more practical impact that this ascendance of neoliberalism had on the role of human rights in South Africa's foreign policy under the administration of Mbeki. This is a conversation which demands an in depth look at the situation in Zimbabwe during this time as that was undoubtedly the greatest foreign policy human rights issue during the Mbeki presidency.

⁹⁸ Ibid p 65.

Chapter 7: The Zimbabwe situation

7.1 *The beginning of a crisis*

The Zimbabwean crisis arguably began in 1998 sparked by the economic crisis that year which was marked by high inflation and the corresponding reaction of high interest rates which negatively impacted the people of Zimbabwe. In response to the crisis Zimbabwe experienced widespread protests, many which were led by the Zimbabwean Congress of Trade Unions.⁹⁹ In 2000 a constitutional referendum was held on whether to adopt a new constitution with an updated bill of rights; however, this constitution also contained a few controversial clauses. Chief among these was the expanded powers of the executive and the provision which would allow the state to seize land owned by white Zimbabweans without compensation. The referendum resulted in the proposal being rejected, in a surprise defeat for Zimbabwean President Robert Mugabe and his ruling Zimbabwean African National Union - Patriotic Front (Zanu-PF).¹⁰⁰ This defeat was seen as a particular rebuke of the president as it entailed the rejection of the assigning of more powers to the executive. Conversely the result was also framed as a victory to the fledgling opposition party the Movement for Democratic Change (MDC) which was lead by Morgan Tsvangirai, the former leader of the Zimbabwean Congress of Trade Unions. Later that year, Zanu-PF went on to win the parliamentary elections with 48.6% of the vote to the MDC's 47%, giving Zanu-PF a slim five seat majority in parliament; this represented a huge drop from the 93% Zanu-PF netted in the 1996 presidential elections.¹⁰¹ This victory however, was marred by accusations by the MDC of fraud and voter intimidation by Zanu-PF.¹⁰² Within months of this victory thousands of former liberation war veterans, who fought for Zanu-PF seized white owned farms, claiming that the land was illegally stolen by white settlers during the colonial era.¹⁰³ This was a move widely condemned in the international community, and it should be noted that the Zimbabwean government did little

⁹⁹ Cutler, D. "Timeline: Key Dates in Zimbabwe's Crisis". Reuters. 17 January 2008. <http://www.reuters.com/article/us-zimbabwe-currency-crisis-idUSL1691841420080117>. Retrieved:25/01/2016.

¹⁰⁰ Loc Cit.

¹⁰¹ IPU. "Zimbabwe Parliamentary Chamber: Parliament - Elections held in 2000". Inter-Parliamentary Union. 25 June 2000. http://www.ipu.org/parline-e/reports/arc/2361_00.htm. Retrieved: 25/01/2016.

¹⁰² Cutler, D. Op Cit.

¹⁰³ Loc Cit.

to rectify the situation. Importantly, this action was taken by Zanu-PF supporters and as a result benefited those who belonged to the ruling party, also it cannot be forgotten that this occurred not so long after the Zimbabwean electorate rejected the constitutional referendum which proposed such land seizure.

In the year following this land seizure, 2001, Zimbabwe experienced severe food shortages which critics of the Mugabe regime claimed were a result of the illicit land seizures which led to reduced crop yields. The Zimbabwean government however, attributed the shortfall to an ongoing drought.¹⁰⁴ The truth most likely lies between the two claims, while the impact of the drought on farming production cannot be ignored, neither can the fact that large swathes of commercial farmland were underutilised and that the farming industry in Zimbabwe was in a state of undeniable crisis. That year also saw the beginning of western governments withdrawing economic aid to Zimbabwe over reported human rights abuses by the Zimbabwean state as well as Mugabe's land policy.¹⁰⁵

7.2 *The 2002 election*

In March 2002, Zimbabwe held the country's presidential elections, this was to be the first head-to-head contest between Robert Mugabe and Morgan Tsvangirai. The build up to the two-day election beginning on 9 March was fraught with allegations of voter intimidation and violence. The election itself was no different with strong allegations of fraud and corruption. The official results of the election were that Mugabe had received 56.25% of the vote to Tsvangirai's 42%, the remainder was split between other candidates.¹⁰⁶ The result meant that Mugabe was returned to the presidency for a fifth straight term. The fallout over the election was almost instantaneous, multiple election observer bodies criticised the election claiming it had not been free and fair. Claims of voter roll manipulation and voter intimidation were levelled at Zanu-PF and the Election Supervisory Committee (ESC). It must be pointed out that the South African electoral observers stated that the election result was legitimate.

¹⁰⁴ Cutler, D. "Timeline: Key Dates in Zimbabwe's Crisis". *Reuters*. 17 January 2008. <http://www.reuters.com/article/us-zimbabwe-currency-crisis-idUSL1691841420080117>. Retrieved:25/01/2016.

¹⁰⁵ Loc Cit.

¹⁰⁶ AED. "Elections in Zimbabwe". *African Elections Database*. 30 December 2005. http://africanelections.tripod.com/zw.html#2002_Presidential_Election. Retrieved. 26/01/2016.

On 19 March 2002, Zimbabwe was suspended from the Commonwealth after the international organisation claimed that the presidential election “was marred by a high level of politically motivated violence and during which the conditions did not adequately allow for a free expression of will by the electors.”¹⁰⁷ The suspension was taken by the organisation on the recommendation of a three country panel comprising of the national leaders of Australia, Nigeria and notably South Africa.¹⁰⁸ So Mbeki, recommended the suspension of Zimbabwe from the Commonwealth despite the fact that South Africa’s own observer mission claimed that the election was legitimate. There was a curious irony in Mbeki being on the panel which suspended Zimbabwe from the Commonwealth when just seven years earlier he had been so critical of Mandela leading the charge for Nigeria’s suspension. Both countries were suspended for human rights violations and breaching the principles of the organisation as laid out in the Harare Declaration. Yet Mbeki, unlike Mandela, did not follow up this action with any call for further disciplinary measures against Zimbabwe. In fact the president continued to act as if Mugabe was the legitimate leader of South Africa’s northern neighbour. In another ironic comparison with Mandela’s approach to Nigeria, the west actually did take action against Zimbabwe placing sanctions of the African state in response to its human rights violations and in particular for its anti-democratic behaviour during the 2002 elections. The west further called upon South Africa to also take a tougher stance towards Zimbabwe and exert its regional influence to stem and even resolve the burgeoning human rights and economic crisis in the country.

Before Mbeki can be criticised for his approach to the Zimbabwean question during this elections, it must be understood as to whether or not South Africa believed the election were legitimate. The dichotomous behaviour of the South African state in both its acceptance of the result at home and condemnation of the election in the Commonwealth leaves this as an important open question.

So what information did Mbeki have at his disposal regarding the 2002 Zimbabwean election?

¹⁰⁷ Anon. “Zimbabwe is suspended from the councils of the Commonwealth”. The Commonwealth. 19 March 2002. <http://thecommonwealth.org/history-of-the-commonwealth/zimbabwe-suspended-councils-commonwealth>. Retrieved: 16/01/2016.

¹⁰⁸ Katwala, S. “Zimbabwe and the Commonwealth” The Guardian, 20 March 2002. <http://www.theguardian.com/world/2002/mar/20/qanda.zimbabwe>. Retrieved:26/01/2016.

7.3 *The Khampepe Report*

7.3.1 *Terms and observations*

South Africa's election observers had declared the result legitimate, but other observers had condemned it. Mbeki had already shown in 1995 when condemning Nigeria's commonwealth suspensions a predisposition to distrusting the west over such decisions. To resolve this, the Khampepe report must be considered.

In February of 2002, Mbeki had set up the Judicial Observer Mission (JOM) which was mandated to compile a report into the upcoming March elections in Zimbabwe. The JOM was comprised of two South African high court judges; these judges were Sisi Khampepe, and Dikgang Moseneke, both of whom now sit on South Africa's Constitutional Court.¹⁰⁹ The JOM was separate from South Africa's other observer mission the South African Observer Mission (SAOM) to the Zimbabwean elections; it was the SAOM which declared the polls to be legitimate.¹¹⁰ It was the JOM which ended up writing the *Report on the 2002 Presidential Elections of Zimbabwe* which colloquially became known as the Khampepe Report after Justice Sisi Khampepe.

The report focuses on the pre-election, election, and vote counting period of the 2002 polls; the JOM's terms of reference were "in the period before, during and shortly after the elections: the constitution, electoral laws and any other laws of Zimbabwe relevant to the elections ("legislative framework") can ensure credible or substantially free and fair elections; and the elections have been conducted in substantial compliance with the legislative framework."¹¹¹ After it had laid out its terms of reference and approach the report gives a brief outline of the constitutional and legislative framework governing Zimbabwe's elections. It then outlined qualifications for voting and voter registration, and briefly outlined some of the controversial moves by the ESC and its head the registrar-general. This included an attempt to disqualify all Zimbabwean citizens who

¹⁰⁹ Khampepe, S. & Moseneke, D. *Report on the 2002 Presidential Elections of Zimbabwe*. <http://cdn.mg.co.za/content/documents/2014/11/14/reportonthe2002presidentialelectionsofzimbabwe.pdf>. (2002). Retrieved: 15/06/2015.

¹¹⁰ Benjamin, C. "Khampepe: Zim's 2002 elections not free and fair". *Mail & Guardian*. 14 November 2014. <http://mg.co.za/article/2014-11-14-khampepe-zimbabwes-2002-elections-not-free-and-fair>. Retrieved: 31/01/2016.

¹¹¹ Khampepe, S. & Moseneke, D. *Op Cit*. p3.

hold a dual nationality from voting as well as to insist that voters must prove that they had resided in their constituency for a continuous twelve month period.¹¹² Both of these issues were resolved through court action brought by the MDC; however, this only occurred less than two weeks before election day. Khampepe and Moseneke then move on to discuss the pre-election environment in Zimbabwe. They note the increased political tensions following Zanu-PF's drastic decline in support in the 2000 polls.¹¹³ They also comment on the disparity in funds and access to resources between the ruling party and the opposition, but do note that despite its disadvantages the MDC still managed to accrue enough capital and coverage to conduct an efficient campaign. They also note the MDC's charge that the police were using the controversial Public Order and Security Act of 2002 to disrupt, disband and forbid multiple MDC rallies and meetings. The authors also noted the accusations by both parties that members of the other were using violence and intimidation, particularly that of Zanu-PF 'youth militias' which were used to attack and terrorise MDC supporters.¹¹⁴ The report also looked at the nature and disparity in media coverage between the two main candidates - in Zimbabwean the vast majority of broadcast (television and radio) media is state owned. However, the most bewildering event is that two weeks before the election Zanu-PF publicly accused Tsvangirai of plotting with 'foreigners' to assassinate Mugabe.¹¹⁵ Tsvangirai was arrested in short order and charged with treason. While the MDC leader was released on bail and was allowed to continue to campaign, state owned media kept the story widely circulated. Importantly, the Zanu-PF led government apparently knew of this plot since October 2001 and only decided to alert the nation and arrest Mr Tsvangirai when elections were imminent; this reeks of a political ploy. Furthermore, it should be noted that Morgan Tsvangirai was never convicted of treason nor was the MDC's general secretary, Welshman Ncube, who was arrested on the same charge during polling; neither were the nebulous 'foreigners' that were supposedly conspiring with Tsvangirai identified.

The report then goes on to discuss the polling days and counting period. The polling itself appeared to have been rather peaceful; however, at the last minute the ESC decided to reduce the number of polling stations in urban areas of Harare and Chitungwiza in order to provide more stations in the

¹¹² Ibid Pp5-7

¹¹³ Ibid p11.

¹¹⁴ Ibid p13.

¹¹⁵ Ibid p13.

rural areas. This was ostensibly so that rural voters would not have to travel such great distances to vote, and this might be the case; however, it cannot be overlooked that the MDC's support strongholds are found in urban areas, particularly Harare and Chitungwiza and that Zanu-PF enjoys tremendous support in the country's rural areas.

As mentioned, polling itself appeared to have been unaffected by any major violence; however, bureaucratic mismanagement was rife. Multiple voting stations did not have enough additional voting rolls resulting in long queues. The days cut off time had to be extended and a second, then third day of voting was needed.¹¹⁶ These additional polling days were only achieved through a court order applied for by the MDC and worryingly multiple voting stations refused to open for the third day, leaving an unknown number of people unable to cast their ballot. After the third day of voting was concluded, counting began. Importantly, the report does not note any irregularities in the counting process.

Before Khampepe and Moseneke move onto their conclusions they first establish the framework with which they would use to measure whether or not the elections were free and fair. The judges turned to standards for free and fair elections developed by 'world renowned social scientists and experts on elections', Jorgen Elklit and Paule Svensson in their work *What makes elections free and fair* published in the *Journal of Democracy* in 1997.¹¹⁷ These scholars believe that the "free-ness and "fair-ness" of elections could be tested against specific criteria at each stage of the process. These measures are outlined briefly below.¹¹⁸

They are as follows:

¹¹⁶ Ibid Pp17-19.

¹¹⁷ Ibid p20.

¹¹⁸ Ibid Pp22-23

| <i>Before polling day</i> | <i>On Polling Day</i> | <i>Counting and post-poll period</i> |
|--|---|--|
| <ul style="list-style-type: none"> ● Freedom of Movement ● Freedom of Speech ● Freedom of Assembly ● Freedom from fear relating to the electoral process ● Absence of notable barriers to standing for election ● Universal suffrage ● Freedom of Choice ● Transparent process ● Unbiased electoral act and system ● Absence of impediments to registering to vote ● Impartial state apparatus (police, army, judiciary, electoral commission) ● Equal opportunities for political parties ● Equal access to public media ● Impartial allotment of public funds ● No misuse of government facilities for campaign purposes ● Voting information distributed in good time | <ul style="list-style-type: none"> ● Opportunity to participate in the election ● Legal possibilities of complaint ● Access to polling stations for party representative, monitors and observers. ● Accessible polling stations ● Secrecy of the ballot ● Absence of voter intimidation ● Effective design of ballot paper ● Proper ballot boxes ● Impartial assistance to voters ● Precautionary measures when transporting election materials ● Impartial protection of polling stations | <ul style="list-style-type: none"> ● Legal possibility of complaint ● Proper counting procedures ● All parties represented in counting stations sign off on vote tallies ● Adequate security and secrecy provided ● Legal possibilities of complaint ● Official and expeditious announcement of election results ● Impartial treatment of complaints ● Impartial reports on results by media ● Acceptance of the result by everyone involved. |

The above criteria may appear to be self-evident but as such do provide a useful baseline by which free and fair elections can be measured. In using these measures outlined by internationally respected scholars Khampepe and Moseneke firmly ground their findings in largely indisputable principles. Once they had established the means by which they were to measure the ‘free-ness’ and ‘fair-ness’ of the election the authors of the report moved onto their findings.

7.3.2 Findings

The findings of the Khampepe Report are unequivocal - the 2002 Zimbabwean presidential elections “cannot be considered to be free and fair”.¹¹⁹ In reaching this conclusion the justices cite the intimidation and violence in the pre-election period in which at least 107 people were killed; the majority of whom were believed to be MDC supporters.¹²⁰ The fact that Zanu-PF had established a military trained youth militia signifies who were the primary perpetrators of this violence. The report notes that “this election related violence and threats of violence, arson and hostage taking have curtailed freedom of movement, freedom of speech, freedom of assembly and of association of voters”.¹²¹ The report also comments on the multiple ways in which Zimbabwe’s electoral laws were changed and manipulated by the executive ahead of the election which resulted in compromising the transparency of the process, the independence of electoral officers and monitors as well as creating impediments to voting itself.¹²² Also of importance was the lack of equitable access to publicly owned and funded media - essentially all domestic broadcast media.¹²³ The report also highlights the biased nature of the police in its different approach to the two main political parties as well as increased impediments to voting in MDC strongholds such as Harare and Chitungwiza; particularly on the third day of polling.¹²⁴ It should be noted that the Khampepe report did state that no counting irregularities were witnessed and that it was predominantly in the “pre-polling, legal and other environment” which informed the justices' findings. This being said those findings were clear in the final paragraph of the report which read as follows: “However, having regard to all circumstances, and in particular the cumulative substantial departures from

¹¹⁹ Ibid p26.

¹²⁰ Ibid p25.

¹²¹ Loc Cit

¹²² Loc Cit

¹²³ Ibid p26.

¹²⁴ Loc Cit.

international standards of free and fair elections found in Zimbabwe during the pre-election period, these elections, in our view, cannot be considered to be free and fair”.¹²⁵

Given the findings by Justices Khampepe and Moseneke it is evident that Mbeki was aware of the deeply flawed nature of the 2002 Zimbabwe presidential elections; this further adds to the motivation behind his role in the suspension of Zimbabwe from the Commonwealth. Yet, despite this report he continued to stand by the findings of SOAM that the elections were legitimate and represented the honest will of the Zimbabwean people. When viewing these events retroactively it is obvious that Mbeki did not really believe this, as not only was he instrumental in the suspension of the Zimbabwe from the Commonwealth, he also actively prevented the Khampepe report from being made public during his presidency. In fact, the report was prevented from public release for over a decade across the administrations of Mbeki, Kgalema Motlanthe and into Jacob Zuma’s tenure. It took multiple court cases over 12 years for the presidency to finally release the report to the public following the successful litigation by the Mail & Guardian newspaper’s investigative journalism unit, Amabhungane.¹²⁶

7.3.3 *Mbeki’s Zimbabwe conundrum*

The following questions must be asked: why Mbeki hide this document and why did South Africa not take more strident action towards this gross breach of democratic values by its northern neighbour. The Khampepe report clearly found that the Zimbabwean government had violated the principles laid out for African states by the AU and more pertinently, Nepad. Here was one of South Africa’s closest neighbours, a key member of SADC, actively flying in the face of Mbeki’s vision of Nepad and the African Renaissance. Furthermore, the resultant sanctions that followed the 2002 elections as well continued mismanagement by Zanu-PF of the economy - not to mention the use of state resources and patronage to ensure its weakened grip on power. The Zimbabwean economy slipped into a freefall.¹²⁷

¹²⁵ Loc Cit.

¹²⁶ Benjamin, C. “Khampepe: Zim’s 2002 elections not free and fair”. *Mail & Guardian*. 14 November 2014. <http://mg.co.za/article/2014-11-14-khampepe-zimbabwes-2002-elections-not-free-and-fair>. Retrieved: 31/01/2016.

¹²⁷ Cutler, D. “Timeline: Key Dates in Zimbabwe’s Crisis”. *Reuters*. 17 January 2008. <http://www.reuters.com/article/us-zimbabwe-currency-crisis-idUSL1691841420080117>. Retrieved:25/01/2016.

The loss of economic and food aid from the west greatly hurt the already damaged Zimbabwean economy, in 2003 hundreds of companies were forced to close down or drastically downsized in the face of the economic hardship and the rapidly increasing inflation.¹²⁸ In 2005, Zanu-PF won the parliamentary election in yet another poll that clearly fell short of the internationally accepted measure of a free and fair election. Later that year the IMF began the process to expel Zimbabwe over its inability to repay the loans it owed the organisation. The following year inflation passed the one thousand percent mark and continued to spiral upwards, causing the country to issue re-denominated notes to accommodate the financial crisis.¹²⁹ During this time of worsening economic conditions, the country's human rights situation was also rapidly deteriorating, accusations of political attacks and torture were reported. In 2005, the UN called on Zimbabwe to stop its indiscriminate bulldozing of informal settlements, a project that cost 700 000 people their homes and affected another 2.4 million others.¹³⁰ During this time, tens of thousands of refugees and economic migrants fled Zimbabwe into neighbouring states, the majority of which crossed into South Africa. The world the region and the South African people looked to the Mbeki administration to resolve the burgeoning crisis and were assured that the South African government were addressing the issue through "quiet diplomacy", resulting in the phrase which first emerged in the aforementioned 1996 foreign policy discussion document becoming a household phrase across South Africa and the region.¹³¹

Yet this quiet diplomacy appeared to produce very little in the way of tangible results, the aforementioned economic and human rights crisis continued to spiral out of control and with them did the flow of migrants and refugees out of Zimbabwe into South Africa. So if South Africa was taken so much strain from the Zimbabwe situation why did the Mbeki administration not take more aggressive action in addressing the issue? The South African president had already proved himself an adept diplomat and statesman on the continent in his previous overtures relating to the AU, Nepal and the WTO agenda, so why not here?

¹²⁸ Loc Cit.

¹²⁹ Loc Cit.

¹³⁰ Loc Cit.

¹³¹ MFA. Foreign Policy for South Africa: Discussion document. 1996.

<http://www.gov.za/documents/foreign-policy-south-africa-discussion-document-0>. Retrieved 11/09/2015. p22.

Firstly it must be acknowledged that Mugabe, even then, was one of the longest serving leaders in SADC and even in Africa and had a reputation for being strong willed and stubborn; accordingly, there was an element of resignation that Mugabe could not be forced to act if he did not wish to. Additionally, Mugabe and Zanu-PF had been an important ally to the ANC during the struggle against Apartheid and as such, being too harsh towards Zanu-PF could be politically difficult within the ANC itself. Mbeki was also wary of falling into the same trap Mandela found himself in in 1995 following his vociferous condemnation of the Abacha regime's execution of the Ogoni Nine. Mbeki was comfortable to form part of a team which suspended Zimbabwe from the Commonwealth but was wary of further action, noting in 2002 "We could have invaded Zimbabwe as some people suggested - but what would this have achieved? You must remember what happened to us (at the Auckland Commonwealth meeting in 1995). We suddenly found that we were the only ones who condemned the planned hanging. As a result we learnt a valuable lesson that, especially in Africa, you cannot act alone because you will find yourself isolated and in a position similar to that of the Apartheid government"¹³² In fact Mbeki was so determined to avoid being seen to make the same mistake of being a sole voice of condemnation against another African country, and even another well-known African leader¹³³, that South Africa not only refused to take punitive action or a stronger tone towards Zimbabwe but also condemned western states which imposed targeted sanctions against members of Zanu-PF.¹³⁴ Importantly this was also a vital time for Mbeki's larger African diplomatic agenda, particular the furthering of Nepad and his neoliberal view of Africa's future.

Closer attention must also be placed on the economic impact the Zimbabwean crisis had on South Africa during the early 2000s. While it is true that the southern African region is estimated to have lost billions in potential investment and regional economic growth as a result of Zimbabwe's collapse the impact of South Africa is somewhat more complex. South Africa's infrastructure and social fabric did take strain with the vast number of Zimbabwe's crossing the border in search of

¹³² Siko, J.A. Democratic Foreign Policy Making and The Thabo Mbeki Presidency: A Critical Study. UNISA. 2014. http://uir.unisa.ac.za/bitstream/handle/10500/13360/thesis_siko_ja.pdf?sequence=1. p84.

¹³³ In 1995 Sani Abacha, 2002 Robert Mugabe.

¹³⁴ Dirco. "Statement on the Imposition of Targeted Sanctions on Zimbabwe". Department of International Relations and Cooperation. 18 February 2002. <http://www.Dirco.gov.za/docs/2002/zimb0218.htm>. Retrieved. 02/02/2016.

work, and these pressures ended up leading to the horrific xenophobic violence in 2008. However, the brunt of this impact was largely felt by the poor and economically vulnerable in South Africa. In fact it has been argued that South Africa was a net winner from the Zimbabwean crisis as it was the chief beneficiary of Zimbabwe's brain drain which helped fill South Africa's own skill shortage.¹³⁵ In addition, the collapse of Zimbabwean agriculture industry led to a huge influx of farm workers into South Africa which drove down the cost of labour in the agriculture sector - and of course other labour intensive industries such as mining among others.¹³⁶

South Africa did have to contend with the increased cost of securing borders, processing and deporting migrants as well as millions of rands in unpaid accounts owed by the Zimbabwean state to South Africa's parastatals. Yet, it should also be noted that South African exports to Zimbabwe increased from less than R5 million in 2000 to over R13 billion in 2009.¹³⁷ This was largely due to Zimbabwe's collapsing industry and South Africa's position as the most industrialised nation in the region. Zimbabwe's economic collapse also resulted in South Africa being entrenched as the economic hegemony of SADC as well as the region's major power producer and bread basket.

It should be acknowledged that the Mbeki administration's defence around quiet diplomacy as a policy approach, stems from the argument that it was the least bad option, which must be given some credence as harsher treatment such as sanctions could have worsened the Zimbabwean crisis and also would have undermined South Africa's continental agenda. This being said, it is not difficult to see that South Africa was a net beneficiary from Zimbabwe's economic collapse; and that economic and market forces did trump the human rights agenda in South Africa's approach to the burgeoning crisis in its northern neighbour.

South Africa's evolving approach to human rights under Mbeki was not just limited to the SADC region and its approach to the Zimbabwean situation but was also increasing evident in other spheres of its foreign policy. In 2007 South Africa was elected to the UNSC for the first time. During this tenure the country did not make much of an impact; however, South Africa was noted for siding with countries such as China and Russia when voting on human rights issues.

¹³⁵ Siko *Op Cit.* p83.

¹³⁶ *Loc Cit.*

¹³⁷ *Loc Cit*

Additionally, South Africa voted against resolutions on imposing sanctions on Robert Mugabe that would have included an arms embargo on Zimbabwe; this was unsurprising.¹³⁸ However, in 2007 South Africa stunned many when it voted against a draft resolution that would have ‘called on Myanmar’s Government to cease military attacks against civilians in ethnic minority regions and begin a substantive political dialogue that would lead to a genuine democratic transition’.¹³⁹ This latter position taken by South Africa seemed to be a direct violation of its stated values in the South African Constitution and its stated desire to maintain human rights as cornerstone of foreign policy as outlined in both *Foreign Policy Perspective in a Democratic South Africa* and of course *South Africa’s Future Foreign Policy*. It must again be highlighted that South Africa voted against this measure as opposed to abstaining would have been viewed as the country failing to live up to its stated human rights objectives as opposed to violating them. Furthermore, with China and Russia both maintaining veto power on the UNSC South Africa’s no vote was not even required in order for the resolution to fail. South Africa clearly wanted to be seen to be showing support to the Chinese and Russian delegations; China in particular had become an increasingly important trade partner and South Africa was viewing China with growing importance. China and Russia were also members of the BRIC (Brazil, Russia, India, China) bloc of emerging powers and two years later in 2010 during the presidency of Jacob Zuma South Africa was admitted into this grouping.

During the Mbeki presidency South Africa was voted on to the United Nations Commission on Human Rights (UNCHR) in 2005 and was part of the group of nations that assisted in the creation of the UNHRC to replace the UNCHR; thus being a founding member of the UNHRC in 2006. During this first tenure South Africa had a mixed record in its approach to the council’s work. The country took strong stances on the rights of Palestinians being persecuted by the state of Israel, but also again acted as a buffer for notorious human rights violators in Africa, particularly Zimbabwe.

This repeated defence of Zimbabwe, and the ignoring of the Khampepe Report, would come back to haunt Mbeki in Zimbabwe’s 2008 general elections. These elections were unusual in that the

¹³⁸ UNSC. “Security Council Fails to adopt sanctions against Zimbabwe leadership as two permanent members cast negative votes” United Nations. 11 July 2008. <http://www.un.org/press/en/2008/sc9396.doc.htm>. Retrieved: 02/02/2016.

¹³⁹ UNSC. “Security Council fails to adopt draft resolution on Myanmar, owing to negative votes by China, Russian Federation”. United Nations. 12 January 2007. <http://www.un.org/press/en/2007/sc8939.doc.htm>. Retrieved: 02/02/2016.

country would be holding presidential, parliamentary, senatorial and municipal elections simultaneously on 29 March.¹⁴⁰ The build up to the elections were marred by the usual accusations of voter intimidation and abuse of state media, although the pre-election violence did not appear to be as bad as previous ballots. Within two days of the election the results for the parliamentary elections were released showing that the MDC had secured a narrow parliamentary victory with ninety-nine assembly seats to Zanu-PF's tally of ninety-seven (the MDC-M breakaway faction came third with ten seats).¹⁴¹ However, the presidential results were not released and were continued to be withheld for over a month.¹⁴² When the results of the presidential poll were eventually announced on 2 May, Tsvangirai had received 48.87% of the vote to Mugabe's 43.24%.¹⁴³ Tsvangirai was the clear winner, yet crucially he had failed to secure the necessary 50% plus one vote required by Zimbabwean electoral law to be declared president, resulting in the need for a head to head run off. The MDC and multiple organisations critical of Zanu-PF accused the ruling party, the president and the ESC of rigging the vote count, and demanded an explanation for the delay in announcing the results. Following the announcement of the need for a presidential run off violence exploded across the country largely instigated by "war veterans, Zanu-PF militia and security force members".¹⁴⁴ Officials belonging to Zanu-PF were quoted by media as saying that "the party would not accept defeat in an election because Zimbabwe had been liberated through war, not the ballot box".¹⁴⁵ Furthermore, the government was accused of using the fuel and food shortages as a political weapon, actively prevented government distribution of these rations to known MDC supporters and supportive regions.¹⁴⁶ Following this violence in which, according to opposition parties, as many as 86 people were killed and over 10 000 injured and a further 200 000 people displaced, Morgan Tsvangirai withdrew from the presidential run in a statement made on 23 June 2008. Tsvangirai cited the electoral violence and use of food

¹⁴⁰ Gagare, O. "Zim 2008 election: 'Taken by a gun, not a pen'". *Mail & Guardian*. 10 August 2012. <http://mg.co.za/article/2012-08-10-00-zim-2008-election-taken-by-a-gun-not-a-pen>. Retrieved:08/02/2016

¹⁴¹ Loc Cit

¹⁴² Loc Cit

¹⁴³ AED. "Elections in Zimbabwe". *African Elections Database*. 30 December 2005. http://africanelections.tripod.com/zw.html#2002_Presidential_Election. Retrieved. 26/01/2016.

¹⁴⁴ Gagare, O. "Zim 2008 election: 'Taken by a gun, not a pen'". *Mail & Guardian*. 10 August 2012. <http://mg.co.za/article/2012-08-10-00-zim-2008-election-taken-by-a-gun-not-a-pen>. Retrieved:08/02/2016

¹⁴⁵ Loc Cit

¹⁴⁶ Loc Cit

distribution as a weapon against his supporters as reasons for why he could not continue in the electoral race, and more so reasons why the runoff would not be free and fair. The ESC refused to remove him from the ballot and the now largely defunct election went ahead with Mugabe winning over 90% of the vote. This election was widely condemned by observer missions, including the delegation from SADC.¹⁴⁷ Yet again SADC and the world turned to South Africa and Mbeki to take the lead on the Zimbabwean situation, and this time Mbeki was forced to act, not in the least due to his weakened political status in South Africa following the ANC elective congress (which shall be addressed below) resulting in the need for him to appear more statesmanlike and presidential.

South Africa did take the lead on the post-election peace negotiations, which officially began on 25 July 2008, in Pretoria. Mbeki facilitated these negotiations, pushing for a power sharing agreement and the formation of government of national unity in an attempt to emulate the success of South Africa's own Codesa talks. After several weeks of negotiations, during which one or both parties had threatened to walk out, a power sharing agreement was agreed upon which would see Mugabe retain the presidency and Tsvangirai a newly created post of prime minister.¹⁴⁸ This agreement brought an element of peace to Zimbabwe and a reprieve for its ailing economy, as well as the removal of some sanctions against the country. It was also considered a success for Mbeki - although arguably the 2008 violence arose from his inaction in 2002. This was to be one of the Mbeki administration's last successes due to the unfolding domestic political drama in South Africa.

Mbeki was obviously an influential figure over post-Apartheid South Africa, from his role in the Codesa negotiations, through his emergence as the dominant force in South African policy, both domestic and in its international affairs in 1996. However, Mbeki's control over the South African state came to an abrupt end in 2008. In December 2007 at the ANC's national electoral conference Mbeki lost the bitter struggle for the ANC presidency to his former-deputy, Jacob Zuma. Having

¹⁴⁷ Loc Cit.

¹⁴⁸ Dugger, C.W. "Zimbabwe Rivals Strike a Bargain to Share Power". *New York Times*. 11 September 2008. <http://www.nytimes.com/2008/09/12/world/africa/12zimbabwe.html?em&r=0>. Retrieved 16/02/2016.

lost his bid for a third term at the ANC presidency¹⁴⁹ Mbeki had no formal position in the ANC but his term as state president was only to end in the second quarter of 2009. Concerned of the damage to the party and the country being done by having two rival centres of power, the ANC National Executive Council (NEC), now largely controlled by the faction supporting Jacob Zuma, made the decision to recall Mbeki from the presidency in September 2008. Mbeki, opted to resign from the presidency rather than force a messy parliamentary showdown. Former ANC secretary general, and newly elected ANC deputy president, Kgalema Motlanthe, was inaugurated as the third president of democratic South Africa with the expectation that he would be an interim president until the 2009 general election.

¹⁴⁹ It should be noted that Mbeki was constitutionally prevented from running for a third term as the national state president, which is limited to two terms.

Chapter 8: Kgalema Motlanthe - the placeholder president

Kgalema Motlanthe was only president for a little over eight months but due to the manner and context in which he entered the office his short lived presidency must be addressed. Motlanthe's mandate was essentially to steady the ship in order to calm investors and South Africa's citizens following the public power struggle within the ANC and the abrupt departure of Thabo Mbeki from the presidency. Accordingly, Motlanthe maintained nearly all of Mbeki's cabinet with certain obvious exceptions; the most notable of which was the moving of Mbeki's unpopular health minister, Manto Tshabalala-Msimang, to a non-descript position in the presidency and replacing her with the Barbara Hogan. Mbeki's controversial approach to South Africa's AIDS epidemic was the cause of much criticism both home and abroad, with some organisations attributing the deaths of over 300 000 south africans to the failure of his government's health policy. Hogan and Motlanthe quickly reversed the previous administration policy on HIV/AIDS and anti-retrovirals to much acclaim. However, most pertinent to this paper is that Motlanthe kept Dlamini-Zuma in the position of foreign minister, thus indicating a desire to maintain the Mbeki administration's approach to South African foreign policy.

Due to the short period in which Motlanthe was president, there was very little he could accomplish as president. This was largely acknowledged by foreign policy observers ahead of his rushed inauguration in 2008.¹⁵⁰ This is confirmed in a retrospective view of Motlanthe's presidency as Chris Landsberg phrases it in his article 'Continuity and Change in the Foreign Policies of the Mbeki and Zuma Governments' for *Africa Insights* that the months of Motlanthe's term were "continuity all the way".¹⁵¹ In fact when talking about foreign policy Motlanthe went out of his way to commend the Mbeki administration on its work in the international arena. In particular Motlanthe praised Mbeki's role in multilateral organisations and as a facilitator in the negotiations following Zimbabwe's 2008 election.¹⁵² While this may seem to

¹⁵⁰ Sidiropoulos, E. "South African foreign policy in the post-Mbeki period", South African Journal of International Affairs. Vol. 15, No. 2. (2008), p107.

¹⁵¹ Landsberg, C. "Continuity and Change in the Foreign Policies of the Mbeki and Zuma Governments". Africa Insight. Vol. 41. No. 4. EISA. 2012. p7.

¹⁵² Loc Cit.

be expected from a caretaker president talking less than a year from elections, it does illustrate the fact that Mbeki was removed from the presidency due to intra-party politics and not for his commitment to neoliberalism despite the hatred for the ideology that the ANC's new ruling bloc claimed to have. It was only Mbeki's controversial and devastating aids policy which Motlanthe took steps to scrap; everything else, he and the ANC wished to stress would be business as usual.

Chapter 9: A new president, the same foreign policy

9.1 *Business as usual*

President Jacob Zuma was elected president following the ANC's victory in South Africa's 2009 general election, making him the third democratically elected president of the Republic of South Africa.¹⁵³ Zuma, established his administration with a greatly expanded cabinet of which the most notable appointment for this paper is that of Maite Nkoana-Mashabane as head of the newly renamed Department of International Relations and Cooperation (Dirco).¹⁵⁴ This appointment was unusual as Nkoana-Mashabane previous experience was largely limited to her previous position as Member of the Executive Council (MEC) in Limpopo in which she headed up the provincial housing department - a role for which she was commended.¹⁵⁵ However, the new minister appeared to have limited foreign affairs experience, unless you count the fact her late husband was the former ambassador to Indonesia. Yet, despite this the minister has been praised for her work in the department and is one of very few ministers who has not been moved from their department in one of the numerous cabinet shuffles under Zuma. This paper, as aforementioned, is limiting the scope of research of Zuma's administration to his first term, 2009-2014. In this time, Dirco has received both much praise and condemnation, for its actions in international organisations, multilateral groupings and the lengths to which it has gone to satisfy trade partners.

One of the first major foreign policy accomplishments of the Jacob Zuma administration was its inclusion into the BRIC(S) bloc of emerging powers in the latter half of 2010.¹⁵⁶ As previously mentioned in this paper this occurred following a greater diplomatic aligning with the People's Republic of China in the previous year, notably South Africa's regular support for China's position on the UNSC. Additionally, South Africa's trade with the Asian power had rapidly increased due to the economic slowdown in western states and China's continued thirst of natural resources; in

¹⁵³ He was however, the fourth post-Apartheid president due to Kgalema Motlanthe's temporary eight month presidency.

¹⁵⁴ Formerly the Ministry of Foreign Affairs.

¹⁵⁵ Dirco. "Profile: Ms Maite Nkoana-Mashabane", Department of International Relations and Cooperation. http://www.Dirco.gov.za/department/profile_mashabane.html. Retrieved: 26/02/2016.

¹⁵⁶ Alden, C & Wu Y.S. "South Africa and China: The Making of a Partnership". South African Institute of International Affairs. OP 199. (2014) p10.

2009 China became South Africa's single largest trading partner.¹⁵⁷ South Africa's inclusion into BRICS did raise some eyebrows due to the country's comparatively small size. In 2010 South Africa's economy was ranked as the 28th largest in the world in terms of GDP, by comparison Brazil was ranked 7th, Russia 11th, India 9th and China 2nd.¹⁵⁸ This really made South Africa the minnow of the group; however, it was argued that due to South Africa's relative size and influence in Africa the regional power should be admitted to the BRICS bloc. With the backing China this reasoning was accepted by the bloc and South Africa was invited to join the grouping on 21 September 2010.¹⁵⁹

9.2 *Building a Better World: The Diplomacy of Ubuntu*

The joining of BRICS and South Africa's pivot towards other emerging powers was underlined in Dirco's 2011 white paper on South Africa's foreign policy titled *Building a Better World: The Diplomacy of Ubuntu*. This white paper also marked the success of the Mbeki era focus on economic diplomacy over the active pursuit of human rights. While the paper does begin stating it is basing South Africa's foreign policy on the principles of Ubuntu and Batho Pele. The white paper states that "Ubuntu means "humanity" and is reflected in the idea that we affirm our humanity when we affirm the humanity of others."¹⁶⁰ The paper argues that in international relations this philosophy is articulated in the approach that it is in South Africa's "national interest to promote and support the positive development of others."¹⁶¹ Similarly the principle of Batho Pele (people first) would mean that South Africa's national security would be dependent on the "centrality of human security as a universal goal".¹⁶² However, *Building a Better World: The Diplomacy of Ubuntu* does not really go into any depths on how the "centrality of human security" can and will be achieved and what the nature of this security would look like, but rather working on the foundations laid almost fifteen years earlier in the 1996 *Foreign Policy for South Africa:*

¹⁵⁷ Ensor, L. "Bilateral trade with China on the increase". BdLive. 12 March 2014. <http://www.bdlive.co.za/business/trade/2014/03/12/bilateral-trade-with-china-on-the-increase>. Retrieved: 17/02/2016.

¹⁵⁸ World Bank. "Gross Domestic Product 2010". World Development Indicators database, World Bank, 1 July 2011. p1.

¹⁵⁹ Alden & Wu. *Ibid.* p10.

¹⁶⁰ Dirco. "Building a Better World: The Diplomacy of Ubuntu - White Paper on South Africa's foreign policy". Department on International Relations and Cooperation. (2011). p4.

¹⁶¹ Loc Cit.

¹⁶² Loc Cit

Discussion Document focusses almost exclusively on the importance and aims of South Africa's economic diplomacy only really addressing international human rights directly in a single sentence on page 26 which states: "South Africa also remains committed to the major international instruments for the promotion and protection of human rights as well as social, economic and cultural rights."¹⁶³ Essentially just referring to the fact that South Africa are still committed signatories to the ICCPR and the ICESCR.

The 2011 white paper's predominant economic diplomacy focusses on the importance of the multilateral institutions of which South Africa is a part of as well as the need for greater integration in Africa and South/South cooperation. It highlights the need for these multilateral bodies in South Africa's coping with increased globalisation. In regards to South Africa's policy towards Africa, the paper says that the country is going to work towards greater market integration of the SADC states and the deepening of integration in the Southern African Customs Union (SACU) - comprised of South Africa, Botswana and Namibia.¹⁶⁴ Furthermore, the document commits South Africa's continued support for market integration not just within SADC but between SADC, the Common Market for East and Southern Africa (COMESA),¹⁶⁵ and the East African Community (EAC).¹⁶⁶ This is evident of South Africa's commitment to the neoliberal belief on the importance of reducing barriers to entry into markets and the lowering of trade barriers within states, an evident continuation of South Africa's aims under Mbeki, particularly given the role of South Africa in the WTO as discussed earlier in this paper. In fact market integration in Africa is of such import that it is the opening foreign policy objective in the white paper's chapter on Africa, stating that "Regional and continental integration is the foundation for Africa's socio-economic development and political unity, and essential for our [South Africa] own prosperity and security."¹⁶⁷

Although not expressly stated, it is evident from its policies towards SADC, the EAC, COMESA and Nepad that Dirco, and by extension the South African state, views a common African market

¹⁶³ Ibid. p26.

¹⁶⁴ Ibid p22.

¹⁶⁵ COMESA is comprised of Burundi, the Comoros, DRC, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

¹⁶⁶ Dirco. "Building a Better World: The Diplomacy of Ubuntu - White Paper on South Africa's foreign policy". Department on International Relations and Cooperation. (2011). p22.

¹⁶⁷ Ibid. p23.

as a long-term ambition. This underpinned in the chapter on Europe where the EU is praised as “a leading model in regional integration”.¹⁶⁸ When discussing Africa *Building a Better World: The Diplomacy of Ubuntu* inadvertently reveals the much reduced role of human rights and the active pursuit therein. When discussing the need for self-determination and decolonisation the paragraph ends with the rather wedged in line of “South Africa subscribes to the principles of sovereignty and non-interference in the internal affairs of other states”.¹⁶⁹ The paper does not expand on either the potential role of the need to intervene in humanitarian disasters or how this is reconciled with the principles of ‘Ubuntu’ and ‘Batho Pele’.

It is revealing that in the absence of any meaningful engagement on the role of human rights in international relations the 2011 white paper devotes much space to China. First in an opaque manner when stating that South Africa needs to, “shape it’s domestic and foreign policies to respond to global drivers and trends that are influencing the international system”.¹⁷⁰ Secondly, when expanding on these new “global driver”, discussing the ‘Realignment of economic power’ and the manner in which the rise of ‘new economic powers’ is creating a change in the ‘global distribution of power’.¹⁷¹ Then finally, when addressing South Africa’s policy towards Asia and the opportunities in the ascendant continent. While the paper often uses the term ‘Asia’ as a collective, given the role of China as South Africa’s largest single trading partner (as of 2009), this can largely be taken to mean China.¹⁷²

This growing closeness with China and the increased importance of gaining access to Chinese markets brings about the need to discuss the highest profile foreign policy human rights issue of President Jacob Zuma’s first term in office - the denying of a visa to the Dalai Lama.

¹⁶⁸ Ibid p31.

¹⁶⁹ Ibid p20.

¹⁷⁰ Ibid p12.

¹⁷¹ Ibid p13.

¹⁷² Ibid. Pp29-30.

Chapter 10: The Dalai Lama incident

10.1 *Denying the visa*

The Dalai Lama, the spiritual leader of the Tibetan people, was first denied a visa to visit South Africa in 2009 when he was invited to attend a Nobel laureate conference hosted by former presidents Nelson Mandela and Frederik Willem De Klerk (the last Apartheid president who jointly received the Nobel Peace Prize with Mandela), as well as Archbishop Desmond Tutu. The visa was denied on the grounds that a visit by the Dalai Lama would draw attention away from South Africa's preparations for the 2010 Fifa world cup.¹⁷³ This argument was largely dismissed by the press and the event organisers especially following remarks by China's minister counsellor at the country's embassy to South Africa admitting that China had urged the South African government to deny the visa or risk 'damaging bilateral relations' between the two countries.¹⁷⁴ This resulted in the meeting of Nobel Peace Prize laureate's being cancelled and the decision being publically condemned by The Norwegian Nobel Committee as well as Tutu, who stated "We are shamelessly succumbing to Chinese pressure. I feel deeply distressed and ashamed."¹⁷⁵ Arguably this was not a new development in South Africa's foreign policy as in 1999 when the Dalai Lama was in South Africa, then-president Thabo Mbeki refused a meeting citing scheduling conflicts left him unable to meet with the Buddhist monk; however, this was viewed as more likely a move by the residency to pacify China while not refusing entry by a Nobel Prize Laureate and guest of the revered Mandela and Tutu.¹⁷⁶

It was the 2011 incident however which garnered greater attention and condemnation. In this instance the Dalai Lama requested a visa to South Africa to attend the eightieth birthday of Desmond Tutu.¹⁷⁷ During his visit he was also going to speak at a few events and universities,

¹⁷³ Staff Reporter. "Nobel boycott of peace meet after Dalai Lama denied visa". *Mail and Guardian*. 23 March 2009. <http://mg.co.za/article/2009-03-23-nobel-boycott-of-peace-meet-after-dalai-lama-denied-visa>. Retrieved:17/02/2016.

¹⁷⁴ Loc Cit

¹⁷⁵ Loc Cit.

¹⁷⁶ Loc Cit

¹⁷⁷ Polgreen, L. "Dalai Lama's Visa Request Is Denied by South Africa". *New York Times*. 4 October 2011. http://www.nytimes.com/2011/10/05/world/asia/dalai-lama-cancels-south-africa-visit.html?_r=0. Retrieved 17/02/2016.

including the University of the Witwatersrand. According to representatives of the Dalai Lama, the visa applications had been submitted in August in order to grant the South African government time to process the request ahead of Dalai Lama's planned October travel dates.¹⁷⁸ South African authorities however, did not issue the visa nor this time did they formally deny the Dalai Lama a visa, but rather stalled the process until it became untenable for the trip to take place.¹⁷⁹ Yet again, Tutu harshly condemned the actions by the South African government dismissing the official explanation that the normal processes were being followed and that South Africa had not bowed to pressure from China saying: "Clearly, whether they say so or not, they were quite determined that they are not going to do anything that would upset the Chinese,".¹⁸⁰ This time Tutu was joined by condemnation from other parts of civil society including Cosatu, whose leaders were quoted saying "Even though China is our biggest trading partner, we should not exchange our morality for dollars or yuan,".¹⁸¹ As well as the then-vice-chancellor of the University of the Witwatersrand, Loyiso Nongxa, who stated "The state's deliberate indecision ridicules the values pertaining to freedom of speech, expression and movement enshrined in our Constitution and the freedoms for which so many South African have lived, and indeed died".¹⁸²

Although the most significant, albeit reserved, criticism of the government's stalling tactics occurred a year earlier when the matter was heard by South Africa's Supreme Court of Appeal (SCA), after a case was brought forth by Mangosuthu Buthelezi, leader of the Inkatha Freedom Party, and Mosiuoa Lekota, leader of the Congress of the People. The court was heavily critical of the government's cynical use of procrastination to effectively refuse a visa to the Dalai Lama, even though the court admitted there was little evidence to claim the government were going to deny the visa outright. The SCA was also critical of the role of the home affairs minister at the time, Nkosazana Dlamini-Zuma - the former foreign affairs minister in the Mbeki administration.¹⁸³ The

¹⁷⁸ Loc Cit

¹⁷⁹ Agencies. "SA denial of visa to Dalai Lama is unlawful". *Al-Jazeera*. 30 November 2012. <http://www.aljazeera.com/news/africa/2012/11/20121129202117413839.html>. Retrieved: 17/02/2016.

¹⁸⁰ Polgreen, L. *Ibid*.

¹⁸¹ Loc Cit.

¹⁸² Loc Cit.

¹⁸³ Agencies. *Op Cit*.

court found that by unreasonably delaying the issuing the visa to the Dalai Lama, the government, and in particular the minister of home affairs had acted unlawfully.¹⁸⁴

10.2 *Quid pro quo?*

The market benefits of this cynical use of state bureaucracy against the individual person of the Dalai Lama were evident immediately. While the delay in processing his visa was being vilified in South African and global media and being condemned by civil society and Nobel laureates, the nation's deputy-president, Motlanthe, was in Beijing on an official visit to 'to strengthen and consolidate political and economic relations between South Africa and China.'¹⁸⁵ The success of this visit was immediately apparent, state owned South African Airways (SAA) was able to announce a new route operating flights directly between Johannesburg and Beijing; furthermore, Beijing dedicated itself to encouraging the importing of South African manufactured goods.¹⁸⁶ In addition to these trade agreements Motlanthe was also able to secure 'a \$2.5 billion financial partnership agreement between the Development Bank of Southern Africa and the Chinese development bank.'¹⁸⁷ While a correlation between the de facto denial of a visa to the Dalai Lama and the deputy-president's highly successful diplomatic visit to Beijing was denied by the South African government, the timing of the visit does indicate otherwise.

Even before Motlanthe's successful 2011 trip to Beijing, South highly valued the Chinese market, having become South Africa's largest trading partner in 2010. This exports were predominantly natural resources, as well as high-value goods such as automobile engines and parts. In the first three quarters of 2011 Trade with China was worth US\$155 billion, which included US\$10.9

¹⁸⁴ SCA. "Buthelezi & another v Minister of Home Affairs & others (242/12) [2012]" ZASCA 174 (29 November 2012).

¹⁸⁵ Dirco. "Deputy President Kgalema Motlanthe to undertake an Official Visit to the People's Republic of China" Department of International Relations and Cooperation. 21 September 2011. <http://www.dfa.gov.za/docs/2011/chin0921.html>. 17/02/2016.

¹⁸⁶ Sapa. "Motlanthe concludes China Visit". Times Live. <http://www.timeslive.co.za/politics/2011/09/30/motlanthe-concludes-china-visit>. 17/02/2016.

¹⁸⁷ Simelane, T. "Motlanthe wraps up China visit". SABC. <http://www.sabc.co.za/news/a/827e43004884201e9309bfd2ea7cf459/Motlanthe-wraps-up-China-visit-20110929>. Retrieved: 17/02/2016.

billion worth of the ZAR currency. This trade relationship something that the South African government did not want to jeopardise by permitting the Dalai Lama to visit the country.¹⁸⁸

This case brought much criticism on the South African government as well as illustrated the extent to which post-Apartheid South Africa had succumbed to neoliberalism as a governing belief. This highlights the argument made by David Harvey, mentioned earlier in this paper that ‘market-oriented focus can have in the undermining and subsuming of alternative human ethical structures’. South Africa had moved from a liberal democratic paradigm based on the rights of the individual and the collective to a situation where the state was acting against an individual who was acting in a private capacity, travelling to attend the birthday party of a friend, in order to ensure greater access to a lucrative market in the form of a rapidly growing China and the possibility of increasing exports of ‘high-value’ South African manufactured goods.

¹⁸⁸ TMSA. “ South Africa’s biggest export to China is the Rand”. TMSA. <http://www.trademarksa.org/news/sas-biggest-export-china-rand>.

Chapter 11: South Africa at the UN

11.1 *South Africa and the UNSC*

That year, 2011, also saw the beginning of South Africa's second term on the UNSC, having been elected to council with the support of BRICS and the African bloc of nations.¹⁸⁹ Given South Africa's controversial stance on human rights issues during its previous term on the UNSC, many observers were surprised by the country's re-election to the council so soon. However, the country seemed to set on pushing its mandate to the council, of representing African countries in coordination with the other African members, Nigeria and Gabon in 2011 and Morocco and Togo in 2012.¹⁹⁰ In March of 2011 the UNSC voted on what was probably the most consequential decision of that year, UNSC Resolution 1973 aimed at authorising the implementation of a 'no-fly area' over Libya due to the ongoing civil conflict that had erupted there as part of the so called 'Arab Spring'. Interestingly, South Africa voted in favour of the accord, despite the fact that the country was attempting to broker an AU led peace process in Libya, and more so that the rest of the BRICS nations - coincidentally all of which were sitting on the UNSC at the time - abstained from the vote.¹⁹¹ This led to speculation whether or not South Africa had cut a backroom deal with the United States which would allow the latter to claim a two-thirds majority support on the UNSC.¹⁹² This speculation was further fuelled by the intense criticism for the yes vote by sections of the ANC as well as the rather rapid turnaround by the South African government just days after the resolution was passed claiming Nato forces had overstepped their mandate.

In fairness to South Africa, they could have been acting on the principles of the Right To Protect, the international relations norm that claims that a state has the right to intervene within another state's sovereign borders to prevent crimes against humanity. However, these actions seems to fit within a pattern in which South Africa makes one step towards a human rights action but does not wish to fully follow through at the risk of alienating its important markets. Similar to sitting on the Commonwealth committee condemning Zimbabwe's 2002 election while simultaneously

¹⁸⁹ Serroa, O. "South Africa in the UN Security Council 2011-2012". Friedrich Ebert Stiftung. 2011. p2.

¹⁹⁰ Loc Cit

¹⁹¹ UNSC. "Security Council Approves 'No-Fly Zone' over Libya, Authorizing 'All Necessary Measures' to Protect Civilians, by Vote of 10 in Favour with 5 Abstentions". United Nations. 17 March 2011. <http://www.un.org/press/en/2011/sc10200.doc.htm>. Retrieved:18/02/2016.

¹⁹² Serrao Op Cit. p4.

officially recognising the result and claiming the polls were free and fair. Enabling it to partially satisfy both the EU and SADC markets. Similarly it can give the United States the majority on the UNSC it requires, but also confirm US duplicity to its partners who are suspicious of Washington's ambitions. However, it should be noted that in 2012 South Africa did break with China and Russia on the UNSC voting for the draft resolution supporting the Arab League's proposed peace plan in Syria.¹⁹³ This resolution though, was not voted on by BRICS as a bloc; China and Russia used their veto which enabled South Africa, India and Brazil to vote with the rest of the council while still essentially achieving the same result.

11.2 South Africa and the UNHRC

In 2013 South Africa was again elected to sit on the UNHRC for the 2013-2016 term.¹⁹⁴ This has turned out to be a significant term for the UN affiliated body, dealing with multiple human rights violations arising from increased instability in many parts of the world, particularly in the Middle East. However, as in South Africa's previous term on the council, the actions of the country have not been without controversy. In March of 2014, the UNHRC was debating a resolution advocating "The promotion and protection of human rights in the context of peaceful protests".¹⁹⁵ This was expected to be a largely uncontentious decision and South Africa's unequivocal support was assumed; however, this was not the case. The South African delegation was not supportive of the resolution and in fact headed a group of 'like-minded states'¹⁹⁶ attempted to pass amendments to the resolution which would have severely undermined the resolutions effectiveness.¹⁹⁷ This 'like-minded' group was most comprised of authoritarian states, dictatorships and states regularly condemned by human rights organisations. South Africa's resistance to this resolution raised eyebrows, particularly given the country's Apartheid past and the ANC's own history of peaceful

¹⁹³ UNSC. "Security Council Fails to Adopt Draft Resolution on Syria as Russian Federation, China Veto Text Supporting Arab League's Proposed Peace Plan". United Nations. 4 February 2012. <http://www.un.org/press/en/2012/sc10536.doc.htm>. Retrieved: 18/02/2016

¹⁹⁴ Dirco. "South Africa elected to the UN Human Rights Commission". Department of International Relations and Cooperation. 13 November 2013. <http://www.dfa.gov.za/docs/2013/unhrc1113.html>. Retrieved. 19/02/2016.

¹⁹⁵ UNHRC. "The promotion and protection of human rights in the context of peaceful protests". United Nations. A/HRC/25/L.20. 24 March. 2014.

¹⁹⁶ Algeria, Bahrain, Belarus, China, Cuba, Egypt, Ethiopia, India, Russia, Saudi Arabia, United Arab Emirates and Venezuela

¹⁹⁷ Allison, S. "Analysis: South Africa's strange bedfellows at the UN's Human Rights Council". The Daily Maverick. 22 May 2014. http://www.dailymaverick.co.za/article/2014-05-22-analysis-south-africas-strange-bedfellows-at-the-human-rights-council/#.VsdmM_J97IW. Retrieved: 19/02/2016.

resistance. Yet, in more recent years the country had been affected by multiple service delivery protests and labour strikes which disrupted the country's key industries. Many of these protests, though initially peaceful ended in violence with much criticism being laid at the hands of the police for their aggressive tactics. In fact, the South African state had previously been accused of using organs of the state to disrupt protests which threatened the continuity of business activities, one of the best known of these critics is French economist Thomas Piketty.¹⁹⁸ For protest by its very nature is disruptive which runs counter to the ideal of neoliberalism which aims for as much political stability as possible for the market to operate in, regardless of the human right implications. Accordingly, the UNHRC doc would have required the 'like-minded' group, arguably a collection of states prone to experiencing significant protests, to tolerate peaceful protest, which would interfere with operating of neoliberal capitalism.

¹⁹⁸ Piketty, P. "Chapter one: Income and Output". Capital in the Twenty-First Century. The Belknap press. Cambridge. (2014). p39.

Chapter 12: Conclusion

12.1 Neoliberalism and the economising of South African foreign policy

The Republic of South Africa was founded on liberal democratic principles of freedom and human rights in 1994; principles which were codified into the country's constitution. These principles were meant to guide all of the country's institutions, including its foreign policy. For a brief period it did appear that this would be the case for the fledgling nation; when South Africa called for action against Nigeria following the execution of the Ogoni Nine, many believed that would be the new normal for South Africa and potentially the region as a whole. However, from almost its inception South Africa has been under a process of gradual neoliberalisation. This was first truly evident in the country's domestic policies when in 1996 the RDP was replaced with GEAR. That same year the beginnings of the economisation of foreign policy within the ANC had begun illustrating a significant shift from the resolutions adopted at the 48th national conference five years earlier. With the increased focus on trade and market integration, the role and prominence of the human rights agenda was distinctly diminished. This holds true with the observations by Brown and other democratic theorists on the corrosive effect which neoliberal policies have on liberal democracy. A process which began under Mandela.

This undermining of South Africa's liberal democratic institutions and values is far more evident in Mbeki's suppression of the JOM report on the 2002 Zimbabwe elections is taken into account. Not only did the president ignore a report he commissioned by two high court judges, the executive continued to suppress the release of the report to the general public for over a decade. Yet again, this was only resolved when members of the press were forced to go to the courts to compel the presidency to release the report. The Mbeki administration's policy towards Zimbabwe was unpopular at home; whether based on opposition to the ignoring of human rights violations or even concerns over the strain South Africa's infrastructure was under due to the rapid increase of economic migrants. Yet, due to market concerns and factors which only benefited the elite, he failed to take any decisive action over Zimbabwe. The failure of an elected president to respond to the concerns of his constituents in order to fulfill the needs of non-citizen actors is a further breakdown of the liberal democratic order.

There are many analysts and writers on South African foreign policy who argue that South Africa's pivot away from the international human rights regime is natural. That it is part of the process of South Africa 'normalising' as a middle-income state. Yet, this paper has shown that this has occurred as a result of the gradual adoption of neoliberal policies, and the wilful participation in neoliberal institutions. These acts and policies, did not occur in a vacuum or write themselves; but rather, were the result of actors propagating neoliberalism. This is tracked through South Africa's documents and stances on human rights ranging from the 1993 *South Africa's Future Foreign Policy*, to the 1994 *Foreign Policy Perspective in a Democratic South Africa*, and through the 1996 *Foreign Policy for South Africa: Discussion document* and finally until the most recent, *Building a Better World: The Diplomacy of Ubuntu* 2011 white paper. The development of South Africa's foreign policy stances and the gradual commodification and economisation of the country's international relations can be viewed. The importance of human rights to South Africa's international relations can be seen to diminish from a strong liberal democratic view that human rights and natural and essential to be pursued; to a strongly neoliberal belief that human rights will be achieved as a by-product of greater market liberalisation.

This belief led to the situation where the Zuma administration denied the Dalai Lama visa to visit South Africa to attend his friend's birthday; resulting in a perfect illustration of the state acting against an individual who was travelling in their private capacity in order to satisfy the whims and confines of the market. This action severely undermined the country's constitutional democracy and forced the state to act illegally. This argument is still put forth, even when the pursuit of a neoliberal agenda compels a country to act against global human rights; as was the case with South Africa's tenure on the UNHRC and UNSC.

12.2 South Africa's future foreign policy

Since 2014 South Africa has not indicated any intent to reverse the economisation of its foreign policy, which clearly deepened during the first Zuma presidential term. In fact, the showdown between the national executive and the judiciary over the 2015 visit by Omar al-Bashir clearly showed that the situation has deteriorated. That incident developed on the 2011 Dalai Lama incident, in which the South African state, through the Ministry of Home Affairs, acted illegally

in the unsubstantiated delay of issuing the visa. The two events, and the clear development between the two - in 2011 the government acted illegally but could claim innocence, in 2015 the state directly defied a court order - seek to prove Brown's statement in *Neoliberalism and the End of Liberal Democracy* that, "Neoliberal governmentality undermines the relative autonomy of certain institutions—law, elections, the police, the public sphere."¹⁹⁹ Among these institutions is the judiciary and twice now has the executive and the judiciary been forced to clash over decisions taken by South Africa's foreign policy apparatus.

The 2011 white paper *Building a Better World: The Diplomacy of Ubuntu* is almost unrecognisable as the eventual successor to *South Africa's Future Foreign Policy*; however, as illustrated in previous chapters this a result of South Africa's gradual succumbing to global hegemonic neoliberal capitalism. This process is likely set to deepen in the coming years. The *Dirco 2013-2018 Strategic Plan* outlines the department's objectives for the immediate future, which largely seems to be maintaining the course laid out in the 2011 white paper.²⁰⁰ The prioritising of the market over human rights is most likely to continue and indeed has so.

The first two years of Zuma's second presidential term, which falls outside of the parameters of this paper, has already seen two notable incidents which have resulted in criticism of the South African state. Firstly the denial of a visa to Dalai Lama for a third time; this time to attend a meeting of Nobel Laureates in Cape Town, resulting in the entire meeting being cancelled to other delegates boycotting the event in condemnation of South Africa's capitulation to China.²⁰¹

The second major event was, of course, allowing al-Bashir, to arrive and travel freely within South Africa while attending an AU summit in Johannesburg despite there being an arrest warrant for al-

¹⁹⁹ Brown, W. "Neoliberalism and the End of Liberal Democracy". *Theory and Event*. Vol.7. No.1. (2003). p45.

²⁰⁰ Dirco. *Strategic Plan 2013-2018*. Department of International Relations and Cooperation. (2013)

²⁰¹ AP. "Dalai Lama denied South Africa visa for nobel summit". *The Guardian*. 4 September 2014. <http://www.theguardian.com/world/2014/sep/04/dalai-lama-denied-south-africa-visa-nobel-summit>. Retrieved:20/02/2016.

Bashir by the ICC, of which South Africa is a ratified member.²⁰² Resulting in the South African government breaking domestic law, and violating a direct court order.

All this indicates that South Africa is going to continue to prioritise market concerns over human rights. However, there are indications of push back against this not the least in that civil society has begun to challenge Dirco/the government at large on many of their foreign policy decisions, such as SALC over the al-Bashir case and Buthelezi and others challenging the Dalai Lama visa at the SCA. Worryingly, this could force an eventual constitutional crisis pitting the judiciary and the executive against each other.

This does show, however, that there is resistance in South Africa to the intensifying neoliberal regime. Liberal democratic institutions, including but not limited to, civil society, the courts, labour unions and individual citizens seem unwilling to accept the global hegemony of neoliberal norms as a valid argument, rather basing their decisions on South Africa's liberal laws and progressive constitution.

12.3 Scope for future research

The subject matter covered in the above is dynamic and constantly evolving. For practical reasons the focus period was limited to 1994-2014; however, this means that to maintain an accurate ontological understanding of the manner in which neoliberalism continues to impact South Africa's foreign policy and the articulation of human rights in the country's international relations is to continue to research the phenomena. There is also space to engage in a deeper hermeneutic investigation of the manner in which neoliberalism is undermining South Africa's democracy and other democratic institutions such as the legislature, elections and the justice system.

Neoliberalism, also appears to be undergoing a challenge globally as the worst excesses of the system are realised and inequality grows. There has been a global increase in protests over service delivery and equality; laying a direct challenge to neoliberalism fundamental tenants. This threatens the stability which neoliberalism values so greatly. These tensions and challenges, also

²⁰² Cohen, M. "South Africa Defends Decision Not to Arrest Sudan's al-Bashir". *Bloomberg Business*. 12 February 2016. <http://www.bloomberg.com/news/articles/2016-02-12/south-africa-defends-decision-not-to-arrest-sudan-s-al-bashir>. Retrieved:20/02/2016.

provide a space in which further research can be conducted. How will South Africa react to the increased securitisation needed to resist protests over neoliberal driven inequality? If neoliberalism is a waning hegemonic ideology, what is coming next and how will South Africa's foreign policy respond to the weakening of the current iteration of capitalism.

Furthermore, given the rising domestic challenges, including legally, to South Africa's foreign policy decisions and positions, what ramifications does this have for the country's foreign policy and the future of Dirco? Lastly, what long term consequences will arise from forcing the executive and the judiciary to spare of actions taken in the name of South African foreign policy.

12.4 In conclusion: No longer the skunk of the world

It is a simple fact that any attempts to equate South Africa's current foreign policy with that of the Apartheid regime is trite and can be summarily dismissed. Therefore title of this paper, *No Longer the Skunk of the World?*, might be perceived as needlessly provocative. The phrase calls to mind Mandela's inauguration speech on 10 May 1994 when he famously said "Never, never and never again shall it be that this beautiful land will again experience the oppression of one by another and suffer the indignity of being the skunk of the world."²⁰³ Ever since then, the imagery of being "the skunk of the world" has entered the South African lexicon as a warning about acting in state interests that do not benefit the citizenry, or represent the country's founding values.

This paper illustrated the manner in which neoliberalism undermines democracy and relegates human rights to a by-product of market liberalisation. From this it has also shown how the increasing influence of neoliberalism affected South African foreign policy between 1994-2014. It has used documental analysis, primarily focussing on key foreign policy documents; Mandela's *South Africa's Future Foreign Policy*, the 1996 *Foreign Policy for South Africa: Discussion document* and current foreign policy white paper *Building a Better World: The Diplomacy of Ubuntu*. This analysis has clearly shown a gradual but distinct move away from a human rights based approach to foreign policy to one based on neoliberal reverence for global markets, under the guise of "Economic Diplomacy". This analysis is supported by looking at important case studies across the twenty year period. Firstly, the Mandela administration's stand on human rights

²⁰³ Mandela, N. Statement of Nelson Mandela at his Inauguration as President. Pretoria. 10 May 1994.

in Nigeria, Mbeki's 'quiet diplomacy' towards Zimbabwe and the denial of the Dalai Lama's visa to South Africa to attend Tutu's birthday. Furthermore, looking at South Africa's behaviour on international bodies such as Nepad, the AU, the UNSC, the UNHRC and the WTO this tendency towards market oriented diplomacy becomes all the more evident.

All of this illustrates, that in its foreign policy South Africa has gradually abandoned the promise made when the democratic country was founded. The adoption of neoliberalism and the economisation of policy, has allowed the country's foreign affairs to fall under the tyranny of the market and a system which seeks to articulate the entirety of the human experience in terms of commodification.

However, gradual as this process was it was the result of active decisions and agents advocating a neoliberal regime. This means that these decisions and policies can be reversed if political will can be garnered. South Africa, still is a liberal democracy and while the accompanying institutions may be being undermined by neoliberal policies, they are still strong. The country is still a ratified member of the most important international human rights treaties, and has a much commended constitution. All this means is that, although the country still needs to contend with increasing influence of neoliberal capitalism, South Africa is not the skunk of the world and still maintains the potential to be a positive force in the international arena.

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